

July 2, 2025

Honorable Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Re: *PJM Interconnection, L.L.C., Docket No. ER24-2690-___*
Compliance Filing

Dear Secretary Reese:

PJM Interconnection, L.L.C. (“PJM”), pursuant to section 206 of the Federal Power Act (“FPA”),¹ hereby submits proposed changes to the PJM Open Access Transmission Tariff (“Tariff”)² to comply with the Federal Energy Regulatory Commission’s (“Commission”) directive in its June 2, 2025 order in Docket Nos. ER22-2931-001, et al., to revise section 5.3 of the *pro forma* Interconnection Construction Service Agreement (“ICSA”) and section 23.3.3 of the *pro forma* Generation Interconnection Agreement (“GIA”) to “clarify the responsibility for acquiring third-party land rights, consistent with similar provisions that the Commission has previously accepted as just and reasonable in compliance with Order No. 2003.”³ As required by the June 2 Order, PJM’s proposed Tariff revisions clarify responsibility for the procurement of third-party land rights for GIAs and ICSAs, with the responsibility being on the Transmission Owner, at the Project Developer

¹ 16 U.S.C. § 824e.

² Terms not otherwise defined herein shall have the same meaning as set forth in the Tariff, the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., or the Reliability Assurance Agreement among Load Serving Entities in the PJM Region.

³ *PJM Interconnection, L.L.C.*, 191 FERC ¶ 61,182, at P 49 (2025) (“June 2 Order”).

or Interconnection Customer's expense, to use efforts similar in nature and to the extent typically used on the part of the Transmission Owner's own or affiliated generation.⁴

These proposed Tariff revisions, as explained herein, resolve the Commission's concerns identified in the June 2 Order,⁵ and should therefore be accepted as just and reasonable and compliant with the directives of the June 2 Order. In accordance with the June 2 Order,⁶ PJM requests an effective date of June 2, 2025, for the revisions proposed herein.⁷

I. BACKGROUND

A. Procedural History

As relevant to this compliance filing, on December 20, 2023, the Commission issued an order pursuant to FPA section 206 directing PJM to either (1) show cause as to why its *pro forma* ICSA is just and reasonable and not unduly discriminatory or preferential; or (2) explain what Tariff changes would remedy the Commission's concerns if it were to conclude that the Tariff has, in fact, become unjust and unreasonable.⁸ The Commission

⁴ See proposed Tariff, Attachment P, Appendix 2, section 5.3; proposed Tariff, Part IX, Subpart B, Appendix 2, section 23.3.3.

⁵ June 2 Order at PP 46, 51.

⁶ *Id.* at P 51.

⁷ On June 17, 2025, PJM requested clarification that the June 2 Order's directive as to Tariff, Part IX, Subpart B, Appendix 2, section 23.3.3 is limited to the Commission's finding that the *pro forma* GIA is unjust and unreasonable for failing to identify the entity responsible for using efforts to obtain third party land rights. PJM further requested that the Commission clarify that this directive does not alter the obligations on Project Developers to demonstrate Site Control at all required stages of the interconnection process as prescribed under the currently effective Tariff. *PJM Interconnection, L.L.C.*, Request for Clarification and Expedited Consideration of PJM Interconnection, L.L.C., Docket Nos. ER22-2931-002, et al. (June 17, 2025). While the Commission has not yet acted on the request for clarification, this compliance filing reflects PJM's interpretation that the June 2 Order does not disturb Project Developers' obligations to demonstrate Site Control as required by the Tariff.

⁸ *PJM Interconnection, L.L.C.*, 185 FERC ¶ 61,202, at P 41 (2023) ("Show Cause Order").

pointed to the requirements of the *pro forma* Large Generator Interconnection Agreement (“LGIA”) in Order No. 2003, which obligate the transmission provider or the transmission owner—not the interconnection customer—to “use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its affiliates, to procure land rights and permits necessary to construct, operate, and maintain Network Upgrades on property owned by persons other than the interconnection customer, transmission provider, or transmission owner.”⁹ The Commission clarified that, “the issue in the record before us is not who will pay for the ‘efforts’ to acquire the third-party land, but rather who will be responsible for engaging in those efforts.”¹⁰

On April 29, 2024, PJM filed an answer noting its determination that a two-pronged approach would be necessary to address the concerns set forth in the Show Cause Order.¹¹ First, PJM proposed to modify Tariff, Attachment P, Appendix 2, section 5.3 to more closely follow the language of the *pro forma* LGIA to clarify responsibility for acquiring third-party land rights consistent with provisions that the Commission has previously accepted as just and reasonable in compliance with Order No. 2003.¹² Second, PJM noted that the concerns

⁹ *Id.* at P 38 (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 (2003), *order on reh’g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh’g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh’g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff’d sub nom. Nat’l Ass’n of Regul. Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008)).

¹⁰ *Id.* at P 39 n.91 (describing the Interconnection Customer’s cost responsibility for land, rights of use, licenses, rights of way, and easements). Following several abeyance periods, the Commission issued an order on May 31, 2024, directing PJM to respond to the Show Cause Order by the earlier of August 2, 2024, or the date on which PJM makes its filing to make any necessary revisions to the current interconnection process to clarify third-party land rights and obligations. *PJM Interconnection, L.L.C.*, 187 FERC ¶ 61,126, at P 32 (2024).

¹¹ *PJM Interconnection, L.L.C.*, Answer to Motion for Summary Disposition and Motion for Leave to Answer and Answer of PJM Interconnection, L.L.C., Docket Nos. ER22-2931-000 & EL24-26-000, at 2 (Apr. 29, 2024) (“Show Cause Answer”).

¹² Show Cause Answer at 2, 9.

raised in the Show Cause Order pertaining to service agreements issued under Tariff, Parts VII and VIII would require targeted changes to provide clarification to both Project Developers and Transmission Owners.¹³ To address the Commission's concerns in the context of the *pro forma* GIA, PJM submitted proposed Tariff revisions in its August 2, 2024 compliance filing to tie third-party land acquisition obligations to the Site Control requirements in Tariff, Part VII, Subpart A, section 302, and Tariff, Part VIII, Subpart A, section 402.¹⁴

B. Compliance Directives in the June 2 Order

The June 2 Order held that PJM's *pro forma* ICSA is unjust and unreasonable "because it does not identify the entity responsible for using efforts to acquire land rights from third parties" as required in the Commission's *pro forma* LGIA adopted in Order No. 2003.¹⁵ The Commission concluded that PJM's illustrative example in the Show Cause Answer would "clarify the responsibility for acquiring third-party land rights"¹⁶ and directed PJM to submit a compliance filing¹⁷ reflecting the following revisions to Tariff, Attachment P, Appendix 2, section 5.3:

If any part of the Transmission Owner Interconnection Facilities and/or Network Upgrades is to be installed on property owned or controlled by persons other than Interconnection Customer or Interconnected Transmission Owner, the Interconnected Transmission Owner shall at

¹³ *Id.* at 9-10.

¹⁴ *PJM Interconnection, L.L.C.*, Compliance Filing of PJM Interconnection, L.L.C., Docket No. ER24-2690-000 (Aug. 2, 2024).

¹⁵ June 2 Order at P 48. Importantly, the Commission noted that the paper hearing question in this proceeding "was not about who will pay for the 'efforts' to acquire the third-party land, but rather who will be responsible for engaging in those efforts." *Id.* at P 48 n.90.

¹⁶ *Id.* at P 49.

¹⁷ *Id.* at PP 21, 49 (citing Show Cause Answer at 9).

Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such person any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Owner Interconnection Facilities and/or Network Upgrades upon such property.

The June 2 Order held that the *pro forma* GIA was also unjust and unreasonable for similarly failing to identify the entity responsible for using efforts to acquire third-party land rights.¹⁸ The June 2 Order rejected PJM's proposed Tariff changes as "beyond the focus of the paper hearing" and ordered PJM to revise Appendix 2, section 23.3.3 of the *pro forma* GIA "in the same manner that we are requiring PJM to modify section 5.3 of its *pro forma* ICSA."¹⁹

II. COMPLIANCE WITH JUNE 2 ORDER

The June 2 Order found that "PJM's proposed modifications to section 5.3 of the *pro forma* ICSA would clarify the responsibility for acquiring third-party land rights" and directed PJM to submit a compliance filing reflecting such modifications.²⁰ Accordingly, PJM proposes to replace Tariff, Attachment P, Appendix 2, section 5.3 with the language proposed in the Show Cause Answer and set forth above.²¹ This modification clarifies responsibility for acquiring third-party land rights consistent with similar provisions that the

¹⁸ *Id.* at P 51.

¹⁹ *Id.* at P 51 & n.97 (noting that PJM may use the terminology in Tariff, Parts VII and VIII to align with the terminology in the *pro forma* GIA).

²⁰ *Id.* at P 49 (footnote omitted).

²¹ Proposed Tariff, Attachment P, Appendix 2, section 5.3.

Commission has previously accepted as just and reasonable in compliance with Order No. 2003.²²

With respect to third-party land rights under the *pro forma* GIA, the Commission directed PJM to “revise[] section 23.3.3 . . . in the same manner that we are requiring PJM to modify section 5.3 of its *pro forma* ICSA.”²³ PJM therefore proposes to replace the language currently in Tariff, Part IX, Subpart B, Appendix 2, section 23.3 with the following:

23.3.3 Third Parties:

If any part of the Transmission Owner Interconnection Facilities and/or Network Upgrades is to be installed on property owned or controlled by persons other than Project Developer or Transmission Owner, the Transmission Owner shall at Project Developer’s expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such person any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Owner Interconnection Facilities and/or Network Upgrades upon such property.²⁴

These revisions are substantively identical to the proposed revisions to the *pro forma* ICSA²⁵ and constitute a just and reasonable and not unduly discriminatory or preferential replacement rate as set forth in the June 2 Order.²⁶

²² June 2 Order at P 48.

²³ *Id.* at P 51; *see id.* at P 51 n.96 (noting differences in terminology between the *pro forma* ICSA and *pro forma* GIA).

²⁴ Proposed Tariff, Part IX, Subpart B, Appendix 2, section 23.3.3.

²⁵ *See* June 2 Order at P 51 n.96.

²⁶ *Id.* at P 51.

The Commission should find that PJM's proposed Tariff changes comply with the directives of the June 2 Order.²⁷ The proposed changes clearly identify the party responsible "for engaging in . . . efforts" to obtain necessary third-party land and land rights²⁸ and provide Interconnection Customers and Project Developers with greater clarity regarding their responsibility for engagement in efforts to procure land or land rights. PJM's compliance filing should therefore should be accepted as a just and reasonable resolution of these proceedings.

III. COMMUNICATIONS

PJM requests that all communications regarding this filing be directed to the following persons:

Craig Glazer
Vice President – Federal Government Policy
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1200 G Street, N.W.
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²⁷ Show Cause Order at P 41.

²⁸ *Id.* at P 39 n.91.

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IV. ADDITIONAL INFORMATION

In accordance with section 35.13(a)(1) of the Commission's regulations, 18 C.F.R. § 35.13(a)(1), PJM provides the following information:

This filing consists of the following:

1. This transmittal letter;
2. Attachment A – Revisions to the PJM Tariff (marked); and
3. Attachment B – Revisions to the PJM Tariff (clean).

V. EFFECTIVE DATE

As discussed above, PJM proposes to apply the Tariff changes requested herein on a prospective basis to agreements contained in Tariff, *pro forma* GIA, Appendix 2, section 23.3.3, and *pro forma* ICSA, Appendix 2, section 5.3. PJM requests an effective date of June 2, 2025, consistent with the June 2 Order.²⁹

VI. SERVICE

PJM has served a copy of this filing on all PJM Members and on all state utility regulatory commissions in the PJM Region by posting this filing electronically. In accordance with the Commission's regulations,³⁰ PJM will post a copy of this filing to the Commission filings section of its internet site, located at the following link:

²⁹ See June 2 Order at P 51.

³⁰ See 18 C.F.R. §§ 35.2(e) and 385.2010(f)(3).

<https://www.pjm.com/library/filing-order.aspx>, 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 Region³¹ alerting them that this filing has been made by PJM today, and is available by following that link.

VII. CONCLUSION

For the reasons provided herein, PJM respectfully requests that the Commission accept this compliance filing.

Respectfully submitted,

/s/ Elizabeth P. Trinkle

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³¹ PJM already maintains, updates, and regularly uses email lists for all PJM Members and affected commissions.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 2nd day of July 2025.

/s/ Elizabeth P. Trinkle
Attorney for
PJM Interconnection, L.L.C.

Attachment A

Revisions to the PJM Open Access Transmission Tariff

(Marked/Redline Format)

23 Representations and Warranties

23.1 General:

Each Interconnected Entity hereby represents, warrants and covenants as follows with these representations, warranties, and covenants effective as to the Interconnected Entity during the time the Generation Interconnection Agreement is effective:

23.1.1 Good Standing:

Such Interconnected Entity is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated and operates as stated in the Generation Interconnection Agreement.

23.1.2 Authority:

Such Interconnected Entity has the right, power and authority to enter into the Generation Interconnection Agreement, to become a party hereto and to perform its obligations hereunder. The Generation Interconnection Agreement is a legal, valid and binding obligation of such Interconnected Entity, enforceable against such Interconnected Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

23.1.3 No Conflict:

The execution, delivery and performance of the Generation Interconnection Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Interconnected Entity, or with any judgment, license, permit, order, material agreement or instrument applicable to or binding upon the Interconnected Entity or any of its assets.

23.1.4 Consent and Approval:

Such Interconnected Entity has sought or obtained, or, in accordance with the Generation Interconnection Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of the Generation Interconnection Agreement and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

23.2 Transmission Outages:

23.2.1 Outages; Coordination:

The Construction Parties acknowledge and agree that certain outages of transmission facilities owned by the Transmission Owner, as more specifically detailed in the Scope of Work, may be necessary in order to complete the process of constructing and installing all Interconnection Facilities and Transmission Owner Upgrades. The Construction Parties further acknowledge and agree that any such outages shall be coordinated by and through the Transmission Provider.

23.3 Land Rights; Transfer of Title:

In the event activities under Schedule L of this GIA are required, the following provisions will apply, in addition to the provisions set forth above:

23.3.1 Grant of Easements and Other Land Rights:

Project Developer at its sole cost and expense, shall grant such easements and other land rights to the Transmission Owner over the Site at such times and in such a manner as the Transmission Owner may reasonably require to perform its obligations under the GIA and/or to perform its operation and maintenance obligations under the Generation Interconnection Agreement.

23.3.2 Construction of Facilities on Project Developer Property:

To the extent that the Transmission Owner is required to construct and install any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades on land owned by the Project Developer, the Project Developer, at its sole cost and expense, shall legally transfer to the Transmission Owner all easements and other land rights required pursuant to section 23.1 above prior to the commencement of such construction and installation.

23.3.3 Third Parties:

If any part of the Transmission Owner Interconnection Facilities and/or Network Upgrades is to be installed on property owned or controlled by persons other than Project Developer or Transmission Owner, the Transmission Owner shall at Project Developer's expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such person any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Owner Interconnection Facilities and/or Network Upgrades upon such property.~~If any of the easements and other land rights described in section 23.1 above must be obtained from a third party, the Transmission Owner's obligation for completing its construction responsibilities in accordance with the Schedule of Work set forth in Schedule L hereto, to the extent of the facilities that it is responsible for constructing for which such easements and land rights are necessary, shall be subject to Project Developer's acquisition of such easements and other land rights at such times and in such manner as the Transmission Owner may reasonably require to perform its obligations under this Appendix 2, and/or to perform its operation and maintenance obligations under the Generation Interconnection Agreement, provided, however, that upon Project Developer's request, the Transmission Owner shall assist the Project Developer in acquiring such land rights with efforts similar in nature and extent to those that the Transmission~~

~~Owner typically undertakes in acquiring land rights for construction of facilities on its own behalf. The terms of easements and land rights acquired by Project Developer shall not unreasonably impede the Transmission Owner's timely completion of construction of the affected facilities.~~

23.3.4 Documentation:

Project Developer shall prepare, execute and file such documentation as the Transmission Owner may reasonably require to memorialize any easements and other land rights granted pursuant to this section 23.3. Documentation of such easements and other land rights, and any associated filings, shall be in a form acceptable to the Transmission Owner.

23.3.5 Transfer of Title to Certain Facilities Constructed by Project Developer:

Within 30 days after the Project Developer's receipt of notice of acceptance following Stage Two energization of the Interconnection Facilities and Transmission Owner Upgrades, the Project Developer shall deliver to the Transmission Owner, for the Transmission Owner's review and approval, all of the documents and filings necessary to transfer to the Transmission Owner title to any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades constructed by the Project Developer, and to convey to the Transmission Owner any easements and other land rights to be granted by Project Developer in accordance with section 23.3.1 above that have not then already been conveyed. The Transmission Owner shall review and approve such documentation, such approval not to be unreasonably withheld, delayed, or conditioned. Within 30 days after its receipt of the Transmission Owner's written notice of approval of the documentation, the Project Developer, in coordination and consultation with the Transmission Owner, shall make any necessary filings at the FERC or other governmental agencies for regulatory approval of the transfer of title. Within 20 days after the issuance of the last order granting a necessary regulatory approval becomes final (i.e., is no longer subject to rehearing), the Project Developer shall execute all necessary documentation and shall make all necessary filings to record and perfect the Transmission Owner's title in such facilities and in the easements and other land rights to be conveyed to the Transmission Owner. Prior to such transfer to the Transmission Owner of title to the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades built by the Project Developer, the risk of loss or damages to, or in connection with, such facilities shall remain with the Project Developer. Transfer of title to facilities under this section shall not affect the Project Developer's receipt or use of the interconnection rights related to Network Upgrades, Distribution Upgrades, Stand Alone Network Upgrades, or Transmission Owner Interconnection Facilities which it otherwise may be eligible as provided in the GIP.

23.4 Warranties:

23.4.1 Project Developer Warranty:

The Project Developer shall warrant that its work (or the work of any subcontractor that it retains) in constructing and installing the Transmission Owner Interconnection Facilities or Stand Alone Network Upgrades that it builds is free from defects in workmanship and design

and shall conform to the requirements of this GIA for one year (the “Project Developer Warranty Period”) commencing upon the date title is transferred to Transmission Owner in accordance with section 23.3.5 of this Appendix 2. The Project Developer shall, at its sole expense and promptly after notification by the Transmission Owner, correct or replace defective work in accordance with Applicable Technical Requirements and Standards, during the Project Developer Warranty Period. The warranty period for such corrected or replaced work shall be the unused portion of the Project Developer Warranty Period remaining as of the date of notice of the defect. The Project Developer Warranty Period shall resume upon acceptance of such corrected or replaced work. All Costs incurred by Transmission Owner as a result of such defective work shall be reimbursed to the Transmission Owner by the Project Developer on demand; provided that the Transmission Owner submits the demand to the Project Developer within the Project Developer Warranty Period and provides reasonable documentation of the claimed costs. The Transmission Owner’s acceptance, inspection and testing, or a third party’s inspection or testing, of such facilities pursuant to Schedule L, section 11.9 of this GIA shall not be construed to limit in any way the warranty obligations of the Project Developer, and this provision does not modify and shall not limit the Project Developer’s indemnification obligations set forth in Appendix 2, section 14.0 of this GIA.

23.4.2 Manufacturer Warranties:

Prior to the transfer to the Transmission Owner of title to the Transmission Owner Interconnection Facilities built by the Project Developer, the Project Developer shall produce documentation satisfactory to the Transmission Owner evidencing the transfer to the Transmission Owner of all manufacturer warranties for equipment and/or materials purchased by the Project Developer for use and/or installation as part of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades built by the Project Developer.

5.3 Third Parties:

If any part of the Transmission Owner Interconnection Facilities and/or Network Upgrades is to be installed on property owned or controlled by persons other than Interconnection Customer or Interconnected Transmission Owner, the Interconnected Transmission Owner shall at Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such person any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Owner Interconnection Facilities and/or Network Upgrades upon such property.~~If any of the easements and other land rights described in Section 5.1 above must be obtained from a third party, the Interconnected Transmission Owner's obligation for completing its construction responsibilities in accordance with the Schedule of Work, to the extent of the facilities that it is responsible for constructing for which such easements and land rights are necessary, shall be subject to Interconnection Customer's acquisition of such easements and other land rights at such times and in such manner as the Interconnected Transmission Owner may reasonably require to perform its obligations under this Appendix 2, and/or to perform its operation and maintenance obligations under the Interconnection Service Agreement, provided, however, that upon Interconnection Customer's request, the Interconnected Transmission Owner shall assist the Interconnection Customer in acquiring such land rights with efforts similar in nature and extent to those that the Interconnected Transmission Owner typically undertakes in acquiring land rights for construction of facilities on its own behalf. The terms of easements and land rights acquired by Interconnection Customer shall not unreasonably impede the Interconnected Transmission Owner's timely completion of construction of the affected facilities.~~

Attachment B

Revisions to the PJM Open Access Transmission Tariff

(Clean Format)

23 Representations and Warranties

23.1 General:

Each Interconnected Entity hereby represents, warrants and covenants as follows with these representations, warranties, and covenants effective as to the Interconnected Entity during the time the Generation Interconnection Agreement is effective:

23.1.1 Good Standing:

Such Interconnected Entity is duly organized or formed, as applicable, validly existing and in good standing under the laws of its State of organization or formation, and is in good standing under the laws of the respective State(s) in which it is incorporated and operates as stated in the Generation Interconnection Agreement.

23.1.2 Authority:

Such Interconnected Entity has the right, power and authority to enter into the Generation Interconnection Agreement, to become a party hereto and to perform its obligations hereunder. The Generation Interconnection Agreement is a legal, valid and binding obligation of such Interconnected Entity, enforceable against such Interconnected Entity in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

23.1.3 No Conflict:

The execution, delivery and performance of the Generation Interconnection Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of the Interconnected Entity, or with any judgment, license, permit, order, material agreement or instrument applicable to or binding upon the Interconnected Entity or any of its assets.

23.1.4 Consent and Approval:

Such Interconnected Entity has sought or obtained, or, in accordance with the Generation Interconnection Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of the Generation Interconnection Agreement and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

23.2 Transmission Outages:

23.2.1 Outages; Coordination:

The Construction Parties acknowledge and agree that certain outages of transmission facilities owned by the Transmission Owner, as more specifically detailed in the Scope of Work, may be necessary in order to complete the process of constructing and installing all Interconnection Facilities and Transmission Owner Upgrades. The Construction Parties further acknowledge and agree that any such outages shall be coordinated by and through the Transmission Provider.

23.3 Land Rights; Transfer of Title:

In the event activities under Schedule L of this GIA are required, the following provisions will apply, in addition to the provisions set forth above:

23.3.1 Grant of Easements and Other Land Rights:

Project Developer at its sole cost and expense, shall grant such easements and other land rights to the Transmission Owner over the Site at such times and in such a manner as the Transmission Owner may reasonably require to perform its obligations under the GIA and/or to perform its operation and maintenance obligations under the Generation Interconnection Agreement.

23.3.2 Construction of Facilities on Project Developer Property:

To the extent that the Transmission Owner is required to construct and install any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades on land owned by the Project Developer, the Project Developer, at its sole cost and expense, shall legally transfer to the Transmission Owner all easements and other land rights required pursuant to section 23.1 above prior to the commencement of such construction and installation.

23.3.3 Third Parties:

If any part of the Transmission Owner Interconnection Facilities and/or Network Upgrades is to be installed on property owned or controlled by persons other than Project Developer or Transmission Owner, the Transmission Owner shall at Project Developer's expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such person any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Owner Interconnection Facilities and/or Network Upgrades upon such property.

23.3.4 Documentation:

Project Developer shall prepare, execute and file such documentation as the Transmission Owner may reasonably require to memorialize any easements and other land rights granted pursuant to this section 23.3. Documentation of such easements and other land rights, and any associated filings, shall be in a form acceptable to the Transmission Owner.

23.3.5 Transfer of Title to Certain Facilities Constructed by Project Developer:

Within 30 days after the Project Developer's receipt of notice of acceptance following Stage Two energization of the Interconnection Facilities and Transmission Owner Upgrades, the Project Developer shall deliver to the Transmission Owner, for the Transmission Owner's review and approval, all of the documents and filings necessary to transfer to the Transmission Owner title to any Transmission Owner Interconnection Facilities and Transmission Owner Upgrades constructed by the Project Developer, and to convey to the Transmission Owner any easements and other land rights to be granted by Project Developer in accordance with section 23.3.1 above that have not then already been conveyed. The Transmission Owner shall review and approve such documentation, such approval not to be unreasonably withheld, delayed, or conditioned. Within 30 days after its receipt of the Transmission Owner's written notice of approval of the documentation, the Project Developer, in coordination and consultation with the Transmission Owner, shall make any necessary filings at the FERC or other governmental agencies for regulatory approval of the transfer of title. Within 20 days after the issuance of the last order granting a necessary regulatory approval becomes final (i.e., is no longer subject to rehearing), the Project Developer shall execute all necessary documentation and shall make all necessary filings to record and perfect the Transmission Owner's title in such facilities and in the easements and other land rights to be conveyed to the Transmission Owner. Prior to such transfer to the Transmission Owner of title to the Transmission Owner Interconnection Facilities and Transmission Owner Upgrades built by the Project Developer, the risk of loss or damages to, or in connection with, such facilities shall remain with the Project Developer. Transfer of title to facilities under this section shall not affect the Project Developer's receipt or use of the interconnection rights related to Network Upgrades, Distribution Upgrades, Stand Alone Network Upgrades, or Transmission Owner Interconnection Facilities which it otherwise may be eligible as provided in the GIP.

23.4 Warranties:

23.4.1 Project Developer Warranty:

The Project Developer shall warrant that its work (or the work of any subcontractor that it retains) in constructing and installing the Transmission Owner Interconnection Facilities or Stand Alone Network Upgrades that it builds is free from defects in workmanship and design and shall conform to the requirements of this GIA for one year (the "Project Developer Warranty Period") commencing upon the date title is transferred to Transmission Owner in accordance with section 23.3.5 of this Appendix 2. The Project Developer shall, at its sole expense and promptly after notification by the Transmission Owner, correct or replace defective work in accordance with Applicable Technical Requirements and Standards, during the Project Developer Warranty Period. The warranty period for such corrected or replaced work shall be the unused portion of the Project Developer Warranty Period remaining as of the date of notice of the defect. The Project Developer Warranty Period shall resume upon acceptance of such corrected or replaced work. All Costs incurred by Transmission Owner as a result of such defective work shall be reimbursed to the Transmission Owner by the Project Developer on demand; provided that the Transmission Owner submits the demand to the Project Developer within the Project Developer Warranty Period and provides reasonable documentation of the claimed costs. The Transmission Owner's acceptance, inspection and testing, or a third party's inspection or testing, of such facilities pursuant to Schedule L, section 11.9 of this GIA shall not

be construed to limit in any way the warranty obligations of the Project Developer, and this provision does not modify and shall not limit the Project Developer's indemnification obligations set forth in Appendix 2, section 14.0 of this GIA.

23.4.2 Manufacturer Warranties:

Prior to the transfer to the Transmission Owner of title to the Transmission Owner Interconnection Facilities built by the Project Developer, the Project Developer shall produce documentation satisfactory to the Transmission Owner evidencing the transfer to the Transmission Owner of all manufacturer warranties for equipment and/or materials purchased by the Project Developer for use and/or installation as part of the Transmission Owner Interconnection Facilities and Stand Alone Network Upgrades built by the Project Developer.

5.3 Third Parties:

If any part of the Transmission Owner Interconnection Facilities and/or Network Upgrades is to be installed on property owned or controlled by persons other than Interconnection Customer or Interconnected Transmission Owner, the Interconnected Transmission Owner shall at Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such person any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Owner Interconnection Facilities and/or Network Upgrades upon such property.