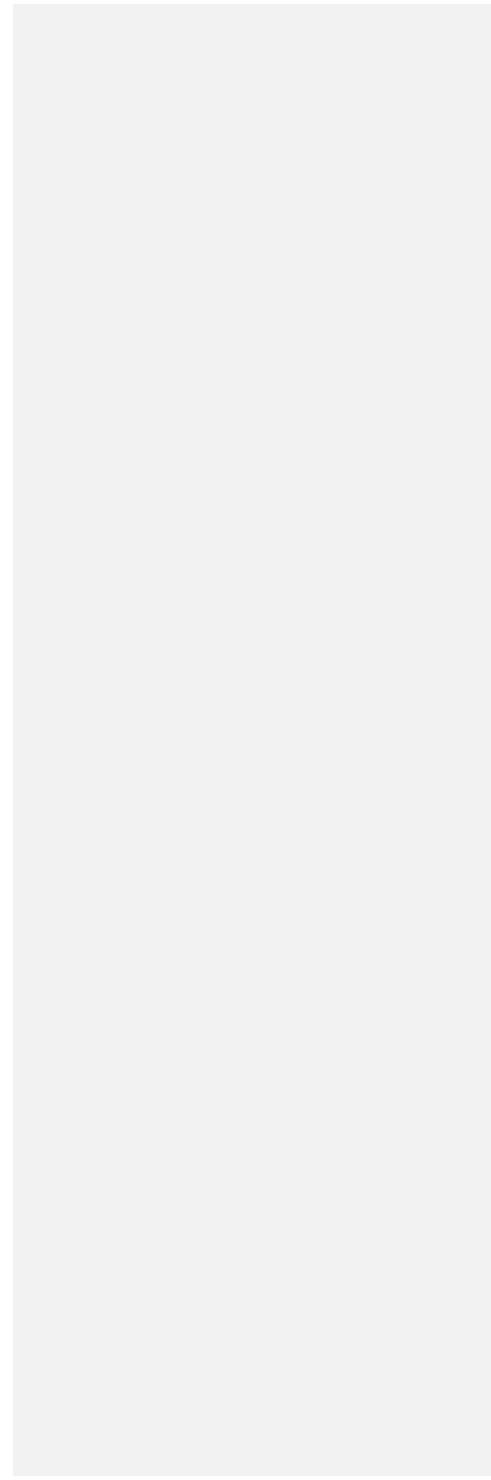


FORM OF

NETWORK UPGRADE COST RESPONSIBILITY AGREEMENT

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~~FORM TEMPLATE~~

~~To be used when a separate NUCRA is required (From Part IX of the PJM Tariff)~~

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Service Agreement No. [

]

(Network Upgrade # [REDACTED])

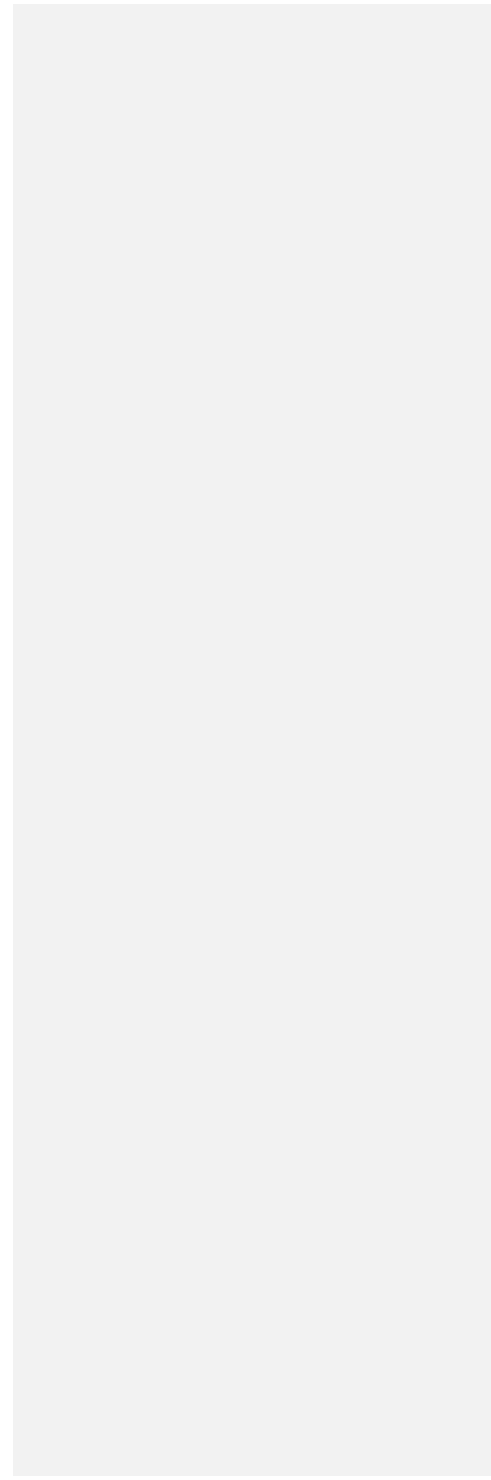
NETWORK UPGRADE COST RESPONSIBILITY AGREEMENT

By and Among

PJM INTERCONNECTION, L.L.C.

And And And

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|

Service Agreement No. []

NETWORK UPGRADE COST RESPONSIBILITY AGREEMENT

**By and Among
PJM Interconnection, L.L.C.**

**And
[Name of Project Developer]**

**And
[Name of Project Developer]**

**And
[Name of Transmission Owner]**

(Network Upgrade # [])

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1.0 Parties. This Network Upgrade Cost Responsibility Agreement (“NUCRA”) including the Schedules and Appendices attached hereto and incorporated herein, is entered into by and between PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”) and the following Project Developers ~~and~~ ~~Transmission Owner:~~

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Project Developer (includes Eligible Customer and Affected System Customer):

[full name], Project Identifier # [] [OPTIONAL: (also referred to as “[short name”])]

Name and location of Generating Facility or Merchant Transmission Facility Project

Developer:

[full name] and Project Identifier # [] [OPTIONAL: (also referred to as “[short name”])]

Name and location of Generating Facility or Merchant Transmission Facility

{ instructions – for the above, also provide Service Agreement No. or other identifying information if known }

~~Transmission Owner:~~

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[full name] [OPTIONAL: (also referred to as “[short name”])]

All capitalized terms herein shall have the meanings set forth in the appended definitions of such terms as stated in Part I of the Tariff GIP. [Use as/when applicable: This NUCRA supersedes the [] (insert details to identify the agreement being superseded, the effective date of the agreement, the service agreement number designation, and the FERC docket number, if applicable, for the agreement being

superseded.}}] For purposes of the Agreement, the terms “Generation Interconnection Procedures” or “GIP” will refer to the interconnection procedures set forth in [Instructions: use Tariff, Part VII if this is a transition period agreement, or use Tariff, Part VIII if this is a post-transition period agreement].

2.0 Authority. This NUCRA is entered into pursuant to [{use Part VII if this is a transition period CSA subject to Tariff, Part VII} {use Part VIII if this is a new rules NUCRA subject to Part VIII}] of the Tariff. The standard terms and conditions set forth in Appendix 2 to this NUCRA are hereby specifically incorporated as provisions of this NUCRA.

3.0 Effective Date and Term.

3.1 Effective Date. This NUCRA shall become effective on the later of (i) the date the agreement has been executed by all parties to this NUCRA, or (ii) the date that all Project Developers have delivered Security to the Transmission Provider, provided, however, that if the NUCRA is filed with the FERC unexecuted, the Effective Date shall be the date specified by the FERC.

3.2 Term. This NUCRA shall continue in full force and effect from the Effective Date until the termination thereof pursuant to section 7 of Appendix 2 to this NUCRA.

4.0 Common Use Upgrades Construction and Scope. Common Use Upgrades subject to this NUCRA shall be described in the attached Schedule A. Construction of the Common Use Upgrades and changes to the scope of work shall be as set forth in the applicable agreements or projects as identified in section 1.0 above.

5.0 Schedule of Work. The Schedule of Work for construction of the Common Use Upgrades shall be as set forth in the applicable agreements or projects as identified in section 1.0 above.

~~6.0~~ Common Use Upgrade Cost Responsibility. The cost responsibility of each Project Developer for each Common Use Upgrade described in the attached Schedule A shall be described in the attached Schedule B. Cost responsibility shall be described as a percentage of the total estimated cost of each Common Use Upgrade.

7.0 Security. Security associated with this NUCRA shall be the Security provided by each Project Developer as set forth in the Project Developer’s GIA, section 5, or the Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party.

8.0 Notices. Any notice or request made to or by any party regarding this NUCRA shall be made in accordance with the standard terms and conditions for construction set forth in Appendix 2 to this NUCRA to the representatives of the other parties, as indicated below:

Transmission Provider:

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

Project Developer:

[Redacted]

Project Developer:

[Redacted]

Transmission Owner:

[Redacted]

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9.0 Waiver. No waiver by any party of one or more defaults by another in performance of any of the provisions of this NUCRA shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.

10.0 Amendment. Except as set forth in Appendix 2, sections 4 and 13.3 of this NUCRA, this NUCRA or any part thereof, may not be amended, modified, assigned, or waived other than by a writing signed by all parties. Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and initialed by the parties, without modifying or altering the original date of execution, dates of any milestones, or obligations contained therein.

11.0 Incorporation of Other Documents. All portions of the agreements identified in section 1.0 above, and the Tariff and the Operating Agreement pertinent to the subject of this NUCRA and not otherwise made a part hereof are hereby incorporated herein and made a part hereof. To the extent there is a conflict between the NUCRA and other documents, the terms of this NUCRA shall control.

12.0 Addendum of Non-Standard Terms and Conditions. Subject to FERC acceptance, the parties agree that the terms and conditions set forth in the attached Schedule C are hereby incorporated by reference into, and made a part of, this NUCRA. In the event of any conflict between a provision of the attached Schedule C that FERC has accepted and any provision of the standard terms and conditions set forth in Appendix 2 to this NUCRA that relates to the same subject matter, the pertinent provision of the attached Schedule C shall control.

13.0 This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal laws and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction.

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IN WITNESS WHEREOF, the parties have caused this Network Upgrade Cost Responsibility Agreement to be executed by their respective authorized officials.

(Network Identifier # _____)

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

By: _____
Name Title Date

Printed name of signer: _____

Project Developer: [Name of Party]

By: _____
Name Title Date

Printed name of signer: _____

Project Developer: [Name of Party]

By: _____
Name Title Date

Printed name of signer: _____

The signature below of the authorized officer of the Transmission Owner is for the limited purpose of acknowledging that an authorized officer of said Transmission Owner has read this Agreement as of this _____ day of _____, 20_____.

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Transmission Owner: [Name of Party]

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By: _____
Name Title Date

Printed name of signer: _____

APPENDICES:

- | • APPENDIX 1 - DEFINITIONS
- | • APPENDIX 2 - STANDARD TERMS AND CONDITIONS

SCHEDULES:

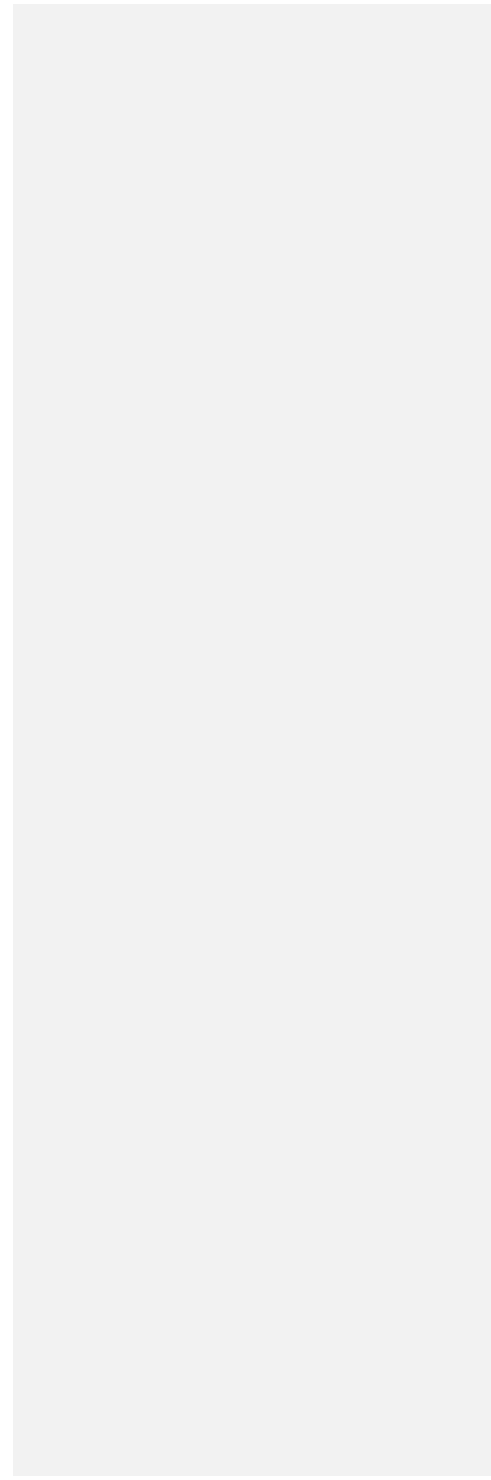
- SCHEDULE A – COMMON USE UPGRADES
- SCHEDULE B – COST RESPONSIBILITY
- SCHEDULE C – SCHEDULE OF NON-STANDARD TERMS AND CONDITIONS

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APPENDIX 1 DEFINITIONS

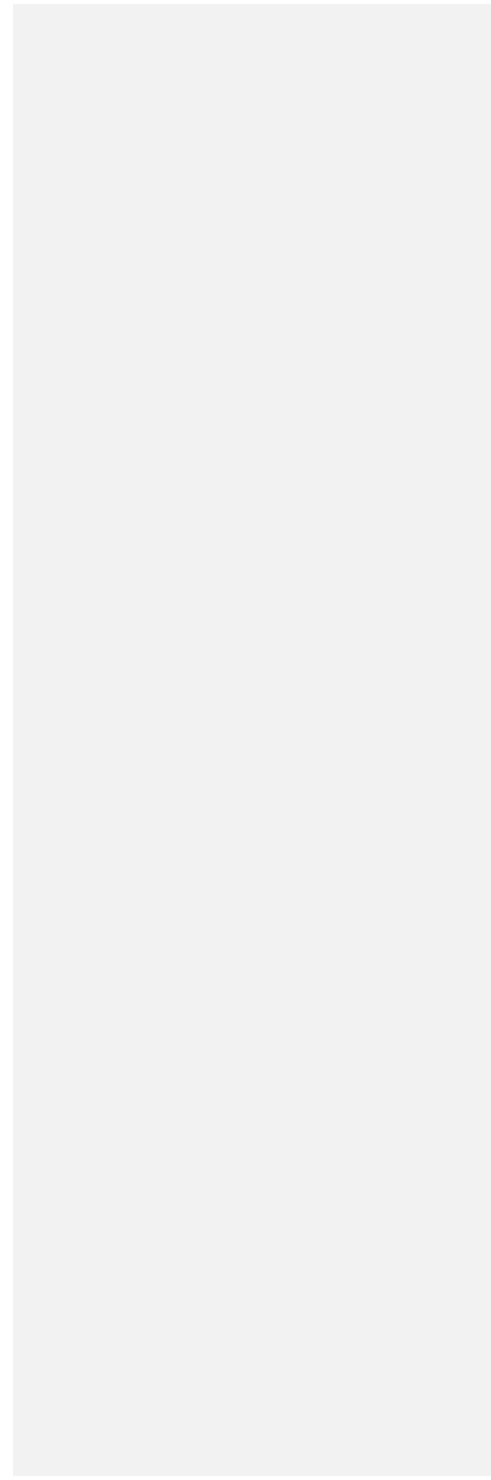
From the Generation Interconnection Procedures accepted for filing by ~~the Commission~~ [FERC](#) as of the effective date of this agreement.

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APPENDIX 2
STANDARD TERMS AND CONDITIONS

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Preamble

The cost responsibility of any Common Use Upgrades required to interconnect a Generating Facility or Merchant Transmission Facility with the Transmission System shall be in accordance with the following Standard Construction Terms and Conditions.

1 Facilitation by Transmission Provider

Transmission Provider shall keep itself apprised of the status of the construction-related activities of the parties to this NUCRA and, upon request of any of them, Transmission Provider shall meet with the parties separately or together to assist them in resolving issues between them regarding their respective activities, rights and obligations under this NUCRA. Each party shall cooperate in good faith with the other parties in Transmission Provider's efforts to facilitate resolution of disputes.

2 Common Use Upgrade Cost Responsibility:

Responsibility for the Costs of Common Use Upgrades shall be assigned in accordance with the ~~GIP, Subpart , section [to be provided] (cost allocation rules)~~. The cost responsibility of each Project Developer shall be shown in Schedule B.

3 Security, Billing ~~And~~ and Payments:

3.1 Security:

Security associated with this NUCRA shall be the Security provided by each Project Developer as set forth in section ~~9.7~~ of this NUCRA above.

3.2 Adjustments to Security:

The Security provided by each Project Developer at or before execution of the applicable GIA, Construction Service Agreement or other relevant NUCRAs the Project Developer is a party to shall be increased or decreased in accordance with the provisions of the applicable GIA, Construction Service Agreement or other relevant NUCRAs the Project Developer is a party to, , and consistent with the Project Developer's cost responsibility set forth in Schedule B of this NUCRA.

3.3 Invoice:

In addition to the invoice provisions set forth in the applicable GIA Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party, for purposes of this NUCRA, Transmission Provider shall bill the Project Developers in accordance with the cost responsibility set forth in Schedule B of this NUCRA.

3.4 Final Invoice:

In addition to the final invoice provisions set forth in the applicable GIA Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party, for purposes of this NUCRA, the accounting and payments shall be in accordance with the cost responsibility set forth in Schedule B of this NUCRA.

3.5 Disputes:

In the event of a billing dispute between any of the parties to this NUCRA, Transmission Provider ~~and the Transmission Owner~~ shall continue to perform their respective obligations pursuant to this NUCRA so long as (a) Project Developer continues to make all payments not in dispute, and (b) the Security held by the Transmission Provider while the dispute is pending exceeds the amount in dispute, or (c) Project Developer pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Project Developer fails to meet any of these requirements, then Transmission Provider shall so inform the other parties to this NUCRA and Transmission Provider ~~or the Transmission Owner~~ may provide notice to Project Developer of a Breach pursuant to section 6 of this Appendix 2.

3.6 No Waiver:

Payment of an invoice shall not relieve Project Developer from any other responsibilities or obligations it has under this NUCRA, nor shall such payment constitute a waiver of any claims arising hereunder.

3.7 Interest:

Interest on any unpaid, delinquent amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. Sections § 35.19a(a)(2)(iii) and shall apply from the due date of the bill to the date of payment.

4 Assignment

4.1 Assignment with Prior Consent:

Except as provided in section 4.2 to this Appendix 2, no party to this NUCRA shall assign its rights or delegate its duties, or any part of such rights or duties, under this NUCRA without the written consent of the other parties, which consent shall not be unreasonably withheld, conditioned, or delayed. Any such assignment or delegation made without such written consent shall be null and void. A party may make an assignment in connection with the sale, merger, or transfer of a substantial portion or all of the Common Use Upgrades which it owns or will own upon completion of construction and the transfer of title required ~~as set forth in section [to be provided]~~ of by the applicable GIA or Construction Service Agreement, so long as the assignee in such a sale, merger, or transfer assumes in writing all rights, duties and obligations arising under this NUCRA. **In addition, the Transmission Owner shall be entitled, subject to Applicable Laws and Regulations, to assign the NUCRA to any Affiliate or successor that owns and operates all or a substantial portion of the Transmission Owner's transmission facilities.**

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~~Such written consent can be in the form of a consent to assignment or other written agreement. Such written consent of the other parties shall not be unreasonably withheld, conditioned, or delayed. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to the Project Developers. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developers shall either:~~

- ~~(i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Such agreement shall be deemed terminated and withdrawn if the Project Developers fail to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by the Project Developers, Transmission Owner shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Transmission Provider may also file the agreement with FERC if Transmission Owner does not comply with the requirements above.~~

4.2 Assignment Without Prior Consent:

4.2.1 Assignment to Owners:

Project Developer may assign the NUCRA without the prior consent of any other party to the NUCRA to any Affiliate or person that purchases or otherwise acquires, directly or indirectly, all or substantially all of the Common Use Upgrades, provided that prior to the effective date of any such assignment, the assignee shall demonstrate that, as of the effective date of the assignment, the assignee has the technical and operational competence to comply with the requirements of this NUCRA and assumes in a writing provided to the ~~Transmission Owner and~~ Transmission Provider all rights, duties, and obligations of Project Developer arising under this NUCRA. However, any assignment described herein shall not relieve or discharge the Project Developer from any of its obligations hereunder absent the written consent of the Transmission Provider, such consent not to be unreasonably withheld, conditioned or delayed. Project Developer shall provide Transmission Provider with notice of any such assignment in accordance with the PJM Manuals.

~~A party to this NUCRA may choose to enter a consent to assignment or other written agreement to effectuate an assignment allowed by section 4.2.1 of this Appendix 2. Consistent with Tariff, Part IX, section 1, Transmission Provider shall tender a consent to assignment agreement to the Project Developers. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, the Project Developers shall either: (i) execute the agreement; or~~

- ~~(ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Such~~

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agreement shall be deemed terminated and withdrawn if the Project Developers fail to comply with these requirements. ~~Not later than fifteen (15) Business Days after execution by the Project Developers, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or~~
~~(iv) file with FERC the agreement in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.~~

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4.2.2 Assignment to Lenders:

Project Developer may, without the consent of any other party to this NUCRA, assign the NUCRA to any Project Finance Entity(ies), provided that such assignment shall not alter or diminish Project Developer's duties and obligations under this NUCRA. If Project Developer provides the parties to this NUCRA with notice of an assignment to any Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to section 12 of this Appendix 2, the Transmission Provider ~~or Transmission Owner~~ shall provide notice and reasonable opportunity for such entity(ies) to cure any Breach under this Appendix 2 in accordance with this Appendix 2. Transmission Provider ~~or Transmission Owner~~ shall, if requested by such lenders, provide such customary and reasonable documents, including consents to assignment, as may be reasonably requested with respect to the assignment and status of the NUCRA, provided that such documents do not alter or diminish the rights of the Transmission Provider ~~or Transmission Owner~~ under this Appendix 2, except with respect to providing notice of Breach to a Project Finance Entity. Upon presentation of the Transmission Provider's ~~and/or the Transmission Owner's~~ invoice therefor, Project Developer shall pay the Transmission Provider ~~and/or the Transmission Owner's~~ reasonable documented cost of providing such documents and certificates. Any assignment described herein shall not relieve or discharge the Project Developer from any of its obligations hereunder absent the written consent of the ~~Transmission Owner and~~ Transmission Provider.

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4.3 Successors and Assigns:

This NUCRA and all of its provisions are binding upon, and inure to the benefit of, the parties to this NUCRA and their respective successors and permitted assigns.

5 Indemnity

5.1 Indemnity:

Each Project Developer to this NUCRA shall indemnify and hold harmless the other parties to this NUCRA, and the other parties' officers, shareholders, stakeholders, members, managers, representatives, directors, agents and employees, and Affiliates, from and against any and all loss, liability, damage, cost or expense to third parties, including damage and liability for bodily injury

to or death of persons, or damage to property or persons (including reasonable attorneys' fees and expenses, litigation costs, consultant fees, investigation fees, sums paid in settlements of claims, penalties or fines imposed under Applicable Laws and Regulations, and any such fees and expenses incurred in enforcing this indemnity or collecting any sums due hereunder) (collectively, "Loss") to the extent arising out of, in connection with, or resulting from (i) the indemnifying party's breach of any of the representations or warranties made in, or failure of the indemnifying party or any of its subcontractors to perform any of its obligations under, this NUCRA (including Appendix 2), or (ii) the negligence or willful misconduct of the indemnifying party or its contractors; provided, however, that no party shall have any indemnification obligations under this section 5.1 in respect of any Loss to the extent the Loss results from the negligence or willful misconduct of the party seeking indemnity.

5.2 Indemnity Procedures:

Promptly after receipt by a party entitled to indemnity ("Indemnified Person") of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in section 5.1 may apply, the Indemnified Person shall notify the indemnifying party(ies) of such fact. Any failure of or delay in such notification shall not affect the indemnifying party's(ies') indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying party(ies). The Indemnified Person shall cooperate with the indemnifying party(ies) with respect to the matter for which indemnification is claimed. The indemnifying party(ies) shall have the right to assume the defense thereof with counsel designated by such indemnifying party(ies) and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the indemnifying party(ies) and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the indemnifying party(ies), the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying party(ies) shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses. The Indemnified Person shall be entitled, at its expense, to participate in any action, suit or proceeding, the defense of which has been assumed by the indemnifying party(ies). Notwithstanding the foregoing, the indemnifying party(ies) (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the indemnifying party(ies), in such event the indemnifying party(ies) shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be unreasonably withheld, conditioned or delayed.

5.3 Indemnified Person:

If an Indemnified Person is entitled to indemnification under this section 5 as a result of a claim by a third party, and the indemnifying party(ies) fails, after notice and reasonable opportunity to

proceed under section 5.2 of this Appendix 2, to assume the defense of such claim, such Indemnified Person may at the expense of the indemnifying party(ies) contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

5.4 Amount Owing:

If an indemnifying party(ies) is obligated to indemnify and hold any Indemnified Person harmless under this section 5, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

5.5 Limitation on Damages:

Except as otherwise provided in this section 5, the liability of a party(ies) under this Appendix 2 shall be limited to direct actual damages, and all other damages at law are waived. Under no circumstances shall any party(ies) or its Affiliates, directors, officers, employees and agents, or any of them, be liable to another party, whether in tort, contract or other basis in law or equity for any special, indirect punitive, exemplary or consequential damages, including lost profits. The limitations on damages specified in this section 5.5 are without regard to the cause or causes related thereto, including the negligence of any party(ies), whether such negligence be sole, joint or concurrent, or active or passive. This limitation on damages shall not affect any party's rights to obtain equitable relief as otherwise provided in this Appendix 2. The provisions of this section 5.5 shall survive the termination or expiration of this NUCRA.

~~5.6~~ Limited Liability in Emergency Conditions:

Except as otherwise provided in the Tariff or the Operating Agreement, no party shall be liable to any other party for any action that it takes in responding to an Emergency Condition, so long as such action is made in good faith, is consistent with Good Utility Practice and is not contrary to the directives of the Transmission Provider or of the Transmission Owner with respect to such Emergency Condition. Notwithstanding the above, Project Developer shall be liable in the event that it fails to comply with any instructions of Transmission Provider or the Transmission Owner related to an Emergency Condition.

6 Breach, Cure and Default

6.1 Breach:

A Breach of the NUCRA shall include, but not be limited to:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this NUCRA including but not limited to any material breach of a representation, warranty or covenant (other than in sections 6.1(a) and (c)-(d) hereof) made in this Appendix 2;

(c) Assignment of the NUCRA in a manner inconsistent with the terms of this Appendix 2; or

(d) Failure of any party to provide information or data required to be provided to another party under this Appendix 2 for such other party to satisfy its obligations under this NUCRA.

6.2 Notice of Breach:

A party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Project Developer, Transmission Provider ~~or the Transmission Owner~~ agree to provide notice of such Breach and in the same manner as its notice to Project Developer, to any Project Finance Entity provided that the Project Developer has provided the notifying party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies) as contacts for notice purposes pursuant to section 12 of this Appendix 2.

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6.3 Cure and Default:

A party that commits a Breach and does not take steps to cure the Breach pursuant to this section 6.3 is automatically in Default of this Appendix 2 and of the NUCRA without further notice from the non-Breaching Parties.

6.4 Cure of Breach:

6.4.1 Except for the event of Breach set forth in section 6.1(a) above, the Breaching Party (a) may cure the Breach within ~~thirty (30)~~ 30 days of the time the non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within ~~thirty (30)~~ 30 days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such ~~thirty (30)~~ 30 day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the parties to the NUCRA. Such agreement shall not be unreasonably withheld.

6.4.2 In an event of Breach set forth in section 6.1(a), the Breaching Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Party is a Project Developer, and the Project Developer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use the Security provided by the Project Developer as set forth in section 7.0 of this NUCRA. Upon drawing on such Security, Project Developer shall automatically be deemed in default of this NUCRA.

6.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting party(ies) shall be entitled to exercise such other rights and remedies as it may have in equity or at law. Subject to section 11 of this Appendix 2, no remedy conferred by any provision of this Appendix 2 is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

7 Termination

7.1 Termination of the NUCRA:

This NUCRA may be terminated by the following means:

7.1.1 By Mutual Consent:

This NUCRA may be terminated as of the date on which the parties mutually agree to terminate this NUCRA.

7.1.2 By All Project Developers:

Subject to payment of Cancellation Costs and of all other unpaid Costs, all Project Developers that are parties to this NUCRA may at the same time unilaterally terminate the NUCRA pursuant to Applicable Laws and Regulations upon providing Transmission Provider ~~and the Transmission Owner~~ sixty (60) days prior written notice thereof. Termination under this section must be performed in parallel with the termination provisions of the applicable GIA, Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party. Project Developers' terminating under this section forfeit Security provided related to the applicable GIA, Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party.

7.1.3 Notification of Final Payment:

This NUCRA shall terminate upon the date Transmission Provider receives written notice, in a form acceptable to the Transmission Provider from the Transmission Owner that Transmission Owner has received final payment of all Costs for the Common Use Upgrades shown on Schedule A.

7.2 Upon Default ~~By~~ by Project Developer:

7.2.1 Consequences of Default ~~By~~ by Project Developer:

If one or more, but not all, Project Developers that are parties to this NUCRA are in Default, such Project Developers shall remain liable for any portion of their cost responsibility for the Costs of the Common Use Upgrades, and Cancellation Costs, in accordance with Schedule B of this NUCRA. Transmission Provider shall draw on and apply such defaulting Project Developer's

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Security to any amount under this NUCRA not paid by that Project Developer. Upon drawing on such Security, Project Developer is automatically in default of this NUCRA, and Project Developer's GIA and Construction Service Agreement; and all such agreements shall be deemed terminated and withdrawn, and Project Developer's project shall be removed from the relevant Cycle.

7.2.2 Reallocation of Costs ~~Upon~~ upon Default ~~By~~ by Project Developer:

If a defaulting Project Developer cannot pay its amount due after exhausting all available Security, the unpaid costs shall be reallocated to the remaining Project Developers in proportion to the cost responsibility percentages set forth in Schedule B. A remaining Project Developer shall be entitled to exercise such other rights and remedies as it may have in equity or at law against the defaulting Project Developer that caused the reallocation of Costs under this section.

~~7.4.3~~ Survival of Rights:

The obligations of the parties to this NUCRA with respect to payments, Cancellation Costs, warranties, liability and indemnification shall survive termination to the extent necessary to provide for the determination and enforcement of said obligations arising from acts or events that occurred while the NUCRA was in effect. In addition, applicable provisions of this NUCRA will continue in effect after expiration, cancellation or termination to the extent necessary to provide for final billings, payments, and billing adjustments.

8 Force Majeure

8.1 Notice:

A party that is unable to carry out an obligation imposed on it by this Appendix 2 due to Force Majeure shall notify each other party in writing or by telephone within a reasonable time after the occurrence of the cause relied on.

8.2 Duration of Force Majeure:

A party shall not be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other parties in writing as soon as reasonably possible after the occurrence of the cause relied upon. Those notices shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred, and when the Force Majeure is reasonably expected to cease. Written notices given pursuant to this Article shall be acknowledged in writing as soon as reasonably possible. The party affected shall exercise Reasonable Efforts to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance. The party affected has a continuing notice obligation to the other parties, and must update the particulars of the original Force Majeure notice and subsequent notices, in writing, as the

particulars change. The affected party shall be excused from whatever performance is affected only for the duration of the Force Majeure and while the party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing party is able to resume performance of its obligations excused because of the occurrence of Force Majeure, such party shall resume performance and give prompt written notice thereof to the other parties.

8.3 Obligation to Make Payments:

Any party's obligation to make payments pursuant to applicable GIA, Construction Service Agreement, this NUCRA, or other relevant NUCRAs to which the Project Developer is a party shall not be suspended by Force Majeure.

8.4 Definition of Force Majeure:

For the purposes of this section, shall mean 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, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond a party's control that, in any of the foregoing cases, by exercise of due diligence, such party could not reasonably have been expected to avoid, and which, by the exercise of due diligence, it has been unable to overcome. Force majeure does not include (i) a failure of performance that is due to an affected party's own negligence or intentional wrongdoing; (ii) any removable or remediable causes (other than settlement of a strike or labor dispute) which an affected party fails to remove or remedy within a reasonable time; or (iii) economic hardship of an affected party.

9 Confidentiality:

The Confidentiality provisions of the applicable GIA Construction Service Agreement or other relevant NUCRAs to which the Project Developer is a party are incorporated by reference and shall apply to this NUCRA.

10 Information Access and Audit Rights

10.1 Information Access:

Subject to Applicable Laws and Regulations, each party to this NUCRA shall make available to each other party information necessary (i) to verify the costs incurred by the other party for which the requesting party is responsible under this Appendix 2, and (ii) to carry out obligations and responsibilities under this Appendix 2. The parties shall not use such information for purposes other than those set forth in this section and to enforce their rights under this Appendix 2.

10.2 Reporting of Non-Force Majeure Events:

Each party to this NUCRA shall notify each other party when it becomes aware of its inability to comply with the provisions of this Appendix 2 for a reason other than an event of force majeure as defined in section 8 of this Appendix 2. The parties agree to cooperate with each other and

provide necessary information regarding such inability to comply, including, but not limited to, the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this section shall not entitle the receiving party to allege a cause of action for anticipatory breach of this Appendix 2.

10.3 Audit Rights:

Subject to the requirements of confidentiality under section 9 of this Appendix 2, each party to this NUCRA shall have the right, during normal business hours, and upon prior reasonable notice to the pertinent party, to audit at its own expense the other party's accounts and records pertaining to such party's performance and/or satisfaction of obligations arising under this NUCRA. Any audit authorized by this section shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Appendix 2. Any request for audit shall be presented to the other party not later than ~~twenty four~~ 24 months after the event as to which the audit is sought. Each party shall preserve all records held by it for the duration of the audit period.

11 Disputes

11.1 Submission:

Any claim or dispute that any party to this NUCRA may have against another party arising out of this Appendix 2 may be submitted for resolution in accordance with the dispute resolution provisions of Tariff, Part I, section 12.

11.2 Rights Under The Federal Power Act:

Nothing in this section shall restrict the rights of any party to file a complaint with FERC under relevant provisions of the Federal Power Act.

11.3 Equitable Remedies:

Nothing in this section shall prevent any party from pursuing or seeking any equitable remedy available to it under Applicable Laws and Regulations.

12 Notices

12.1 General:

Any notice, demand or request required or permitted to be given by any party to this NUCRA to another and any instrument required or permitted to be tendered or delivered by any party, in writing to another shall be provided electronically or may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the party, or personally delivered to the party, at the electronic or other address specified in the NUCRA.

12.2 Operational Contacts:

Each party shall designate, and shall provide to each other party contact information concerning, a representative to be responsible for addressing and resolving operational issues as they arise during the term of the NUCRA.

13 Miscellaneous

13.1 Regulatory Filing:

In the event that this NUCRA contains any terms that deviate materially from the form included in Tariff, Part IX or from the standard terms and conditions in this Appendix 2, the Transmission Provider shall file the executed NUCRA on behalf of itself ~~and the Transmission Owner~~ with FERC as a service schedule under the Tariff. Project Developer may request that any information so provided be subject to the confidentiality provisions of section 9 of this Appendix 2. A Project Developer shall have the right, with respect to any NUCRA tendered to it, to request in writing (a) dispute resolution under section 12 of the Tariff or, if concerning the Regional Transmission Expansion Plan, consistent with Schedule 5 of the Operating Agreement, or (b) that Transmission Provider file the agreement unexecuted with ~~the Commission~~ FERC. With the filing of any unexecuted NUCRA, Transmission Provider may, in its discretion, propose to FERC a resolution of any or all of the issues in dispute between any parties to this NUCRA.

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13.2 Waiver:

Any waiver at any time by any party of its rights with respect to a Breach or Default under this Appendix 2, or with respect to any other matters arising in connection with this Appendix 2, shall not be deemed a waiver or continuing waiver with respect to any other Breach or Default or other matter.

13.3 Amendments and Rights ~~under~~ Under the Federal Power Act:

This NUCRA may be amended or supplemented only by a written instrument duly executed by all parties to this NUCRA. An amendment to the NUCRA shall become effective and a part of this NUCRA upon satisfaction of all Applicable Laws and Regulations. ~~In the event an amendment is desired, Transmission Provider, consistent with Tariff, Part IX, section 1, shall tender an agreement to amend. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer fails to comply with these requirements. Following tender of the agreement and no later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating~~

Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above. Notwithstanding the foregoing, nothing contained in this NUCRA shall be construed as affecting in any way any of the rights of any party with respect to changes in applicable rates or charges under section 205 of the Federal Power Act and/or FERC's rules and regulations thereunder, or any of the rights of any party under section 206 of the Federal Power Act and/or FERC's rules and regulations thereunder. The terms and conditions of this NUCRA and every appendix referred to therein shall be amended, as mutually agreed by the parties, to comply with changes or alterations made necessary by a valid applicable order of any Governmental Authority having jurisdiction hereof.

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13.4 Binding Effect:

This NUCRA, including this Appendix 2, and the rights and obligations thereunder shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties.

13.5 Regulatory Requirements:

Each party's performance of any obligation under this NUCRA for which such party requires approval or authorization of any Governmental Authority shall be subject to its receipt of such required approval or authorization in the form and substance satisfactory to the receiving party, or the party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each party shall in good faith seek, and shall use Reasonable Efforts to obtain, such required authorizations or approvals as soon as reasonably practicable.

14 Representations and Warranties

14.1 General:

Each party to this NUCRA hereby represents, warrants and covenants as follows with these representations, warranties, and covenants effective as to the party during the time the NUCRA is effective:

14.1.1 Good Standing:

Such party 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 NUCRA.

14.1.2 Authority:

Such party has the right, power and authority to enter into the NUCRA, to become a party hereto and to perform its obligations hereunder. The NUCRA is a legal, valid and binding obligation of such party, enforceable against such party 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).

14.1.3 No Conflict:

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

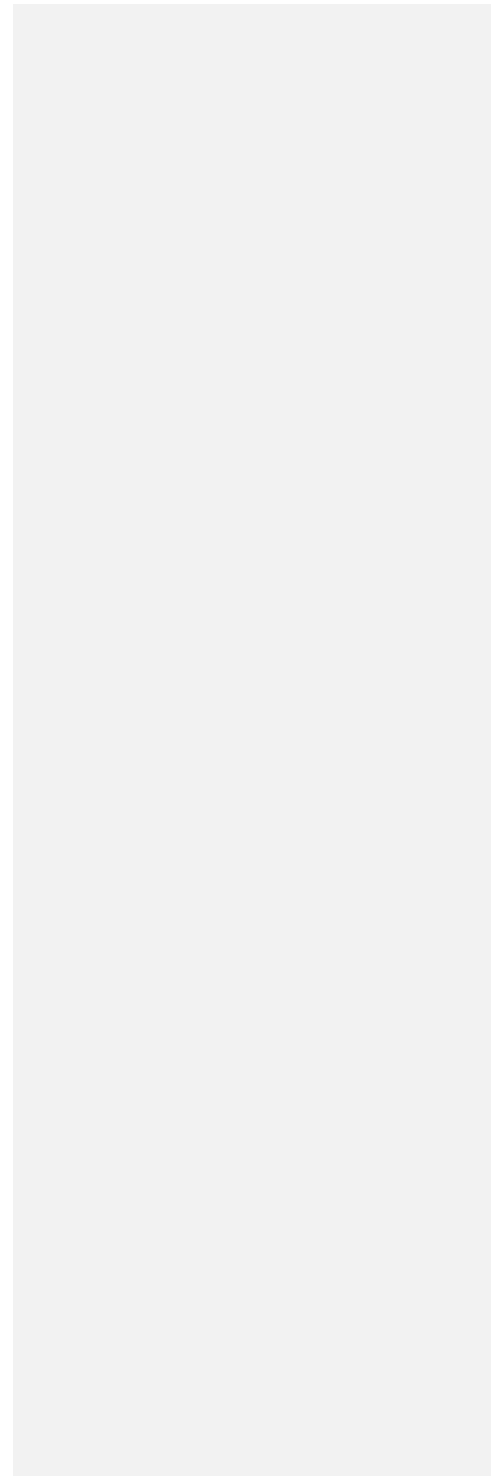
14.1.4 Consent and Approval:

Such party has sought or obtained, or, in accordance with the NUCRA 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 NUCRA and it will provide to any Governmental Authority notice of any actions under this Appendix 2 that are required by Applicable Laws and Regulations.

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SCHEDULE A COMMON USE UPGRADES

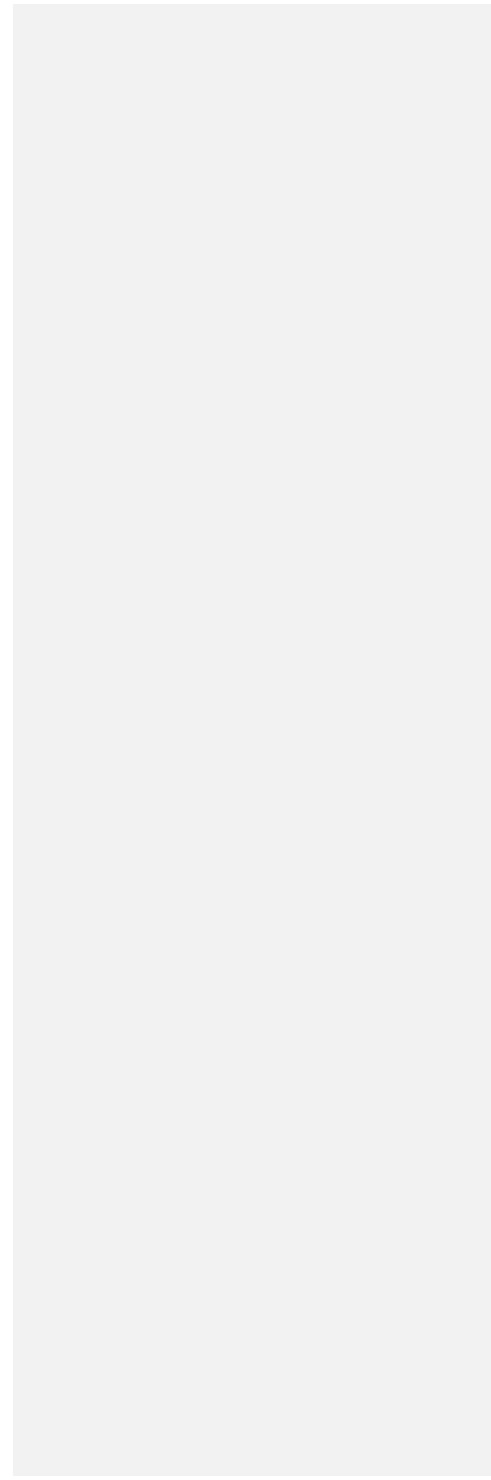
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SCHEDULE B COST RESPONSIBILITY

[provide as a percentage of estimated cost per Common Use Upgrade]

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SCHEDULE C

NON-STANDARD TERMS AND CONDITIONS

[add provisions agreed to by the parties and accepted by FERC]

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