

ATTACHMENT ??

Form of Transmission Service Feasibility Study Agreement

RECITALS

1. This Transmission Service Feasibility Study Agreement, dated as of _____, is entered into, by and between _____ (“Eligible Customer”) and PJM Interconnection, L.L.C. (“Transmission Provider”) pursuant to Part IV of the PJM Interconnection, L.L.C. Open Access Transmission Tariff (“PJM Tariff”). Capitalized terms used in this agreement, unless otherwise indicated, shall have the meanings ascribed to them in the PJM Tariff.
2. The Transmission Provider has, pursuant to Section 19 or Section 32, as applicable, of the PJM Tariff, the Transmission Provider has completed an Initial Study and provided the results of that study to the New Service Customer.
3. Pursuant to Sections 19.3, or 32.3, as applicable, of the PJM Tariff, the New Service Customer (i) requests that the Transmission Provider perform a Firm Transmission Feasibility Study, and (ii) agrees to submit a deposit to the Transmission Provider which will be applied to the New Service Customer’s cost responsibility for the System Impact Study, as set forth in Section 36.4 of the PJM Tariff.

PURPOSE OF THE FEASIBILITY STUDY

4. Consistent with Section 36.4 of the PJM Tariff, the Transmission Provider shall conduct a Firm Transmission Feasibility Study to provide the Eligible Customer with preliminary determinations of: (i) the type and scope of the Direct Assignment Facilities, Local Upgrades, and/or Network Upgrades that will be necessary to accommodate the Eligible Customer’s request; (ii) the time that will be required to construct such facilities and upgrades; and (iii) the Eligible Customer’s cost responsibility for the necessary facilities and upgrades. In the event that the Transmission Provider is unable to complete the Firm Transmission Feasibility Study within the time period set forth in Tariff Section 36.4, the Transmission Provider shall notify the Eligible Customer and explain the reasons for the delay.
5. The Firm Transmission Feasibility Study conducted hereunder will provide only preliminary non-final estimates of the cost and length of time required to accommodate the Eligible Customer’s request. More comprehensive estimates will be developed only upon execution of a System Impact Study Agreement and a Facilities Study Agreement in accordance with Part VI of the PJM Tariff. The Firm Transmission Feasibility Study necessarily will employ various assumptions regarding the Completed Application, other pending requests, and PJM’s Regional Transmission Expansion Plan at the time of the study.

CONFIDENTIALITY

6. The Eligible Customer agrees to provide all information requested by the Transmission Provider necessary to complete the Firm Transmission Feasibility Study. Subject to paragraph 7 of this Firm Transmission Feasibility Study Agreement and to the extent required by Section 222 of the PJM Tariff, information provided pursuant to this Section 6 shall be and remain confidential.
7. Until completion of the Firm Transmission Feasibility Study, the Transmission Provider shall keep confidential all information provided to it by the Eligible Customer other than information made publicly available in accordance with other portions of the PJM Tariff. Upon completion of the Firm Transmission Feasibility Study, the study will be listed on the Transmission Provider's website and, to the extent required by Commission regulations, will be make publicly available upon request.
8. Eligible Customer acknowledges that, consistent with Part IV and Part VI of the PJM Tariff, the Transmission Provider may contract with consultants, including the Transmission Owners, to provide services or expertise in the Firm Transmission Feasibility Study process and that the Transmission Provider may disseminate information to the Transmission Owners.

COST RESPONSIBILITY

9. The Eligible Customer shall reimburse the Transmission Provider for the actual cost of the Firm Transmission Feasibility Study. The refundable portion of the deposit paid by the Interconnection Customer pursuant to Section 36.4 of the PJM Tariff shall be applied toward the Eligible Customer's Firm Transmission Feasibility Study cost responsibility. Pursuant to Section 36.4, in the event that the Transmission Provider anticipates that the actual study costs will exceed the refundable portion of the deposit described in Section 36.4 of the PJM Tariff, the Transmission Provider shall provide the Eligible Customer with an estimate of the additional study costs. The estimated additional study costs are non-binding, and additional actual study costs may exceed the estimated additional study cost increases provided by the Transmission Provider. Regardless of whether the Transmission Provider provides the Eligible Customer with estimated additional study costs, the Eligible Customer is responsible for and must pay all actual study costs. If the Transmission Provider sends the Eligible Customer notification of estimated additional study costs, then the Eligible Customer must either: (1) withdraw the Transmission Service Request within ten business days of having received such notice from the Transmission Provider; or (2) pay all estimated additional study costs within ten business days. If the Eligible Customer fails to complete either (1) or (2), then the Transmission Service Request shall be deemed to be terminated and withdrawn. If at any time after the deficiency review period the Transmission Provider provides the Eligible Customer with notification of estimated additional study costs, the Eligible Customer must pay such estimated additional study costs within ten business days of Transmission Provider sending the Eligible Customer notification of such estimated additional study costs. If the

Eligible Customer fails to pay such estimated additional study costs within ten business days of Transmission Provider sending the eligible Customer notification of such estimated additional study costs, the Transmission Service Request shall be deemed to be terminated and withdrawn.

DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

10. In analyzing and preparing the Firm Transmission Feasibility Study, the Transmission Provider, the Transmission Owner(s), and any other subcontractors employed by the Transmission Provider shall have to rely on information provided by the Eligible Customer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER THE TRANSMISSION PROVIDER, THE TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY THE TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE FEASIBILITY STUDY. The Eligible Customer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Transmission Service Feasibility Study Agreement nor the Firm Transmission Feasibility Study prepared hereunder is intended, nor shall either be interpreted, to constitute agreement by the Transmission Provider or the Transmission Owner(s) to provide any transmission or interconnection service to or on behalf of the Interconnection Customer either at this point.
11. In no event will the Transmission Provider, Transmission Owner(s) or other subcontractors employed by the Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this Transmission Service Feasibility Study Agreement or otherwise, even if the Transmission Provider, Transmission Owner(s), or other subcontractors employed by the Transmission Provider have been advised of the possibility of such a loss. Nor shall the Transmission Provider, Transmission Owner(s) or other subcontractors employed by the Transmission Provider be liable for any delay in delivery or of the non-performance or delay in performance of the Transmission Provider's obligations under this Transmission Service Feasibility Study Agreement.

Without limitation of the foregoing, the Eligible Customer further agrees that Transmission Owner(s) and other subcontractors employed by the Transmission Provider to prepare or assist in the preparation of any Firm Transmission Feasibility Study shall be deemed third party beneficiaries of this provision entitled "Disclaimer of Warranty/Limitation of Liability."

MISCELLANEOUS

12. Any notice or request made to or by either party regarding this Transmission Service Feasibility Study Agreement shall be made to the representative of the other party as indicated below.

Transmission Provider
PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403

Eligible Customer

13. No waiver by either party of one or more defaults by the other in performance of any of the provisions of this Transmission Service Feasibility Study Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
14. This Transmission Service Feasibility Study Agreement or any part thereof, may not be amended, modified, or waived other than by a writing signed by all parties hereto.
15. This Transmission Service Feasibility Study Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, successors, and assigns.
16. Neither this Transmission Service Feasibility Study Agreement nor the Firm Transmission Feasibility Study performed hereunder shall be construed as an application for service under Part II or Part III of the PJM Tariff.
17. The provisions of the PJM Tariff are incorporated herein and made a part hereof.
18. **Governing Law, Regulatory Authority, and Rules**
The validity, interpretation and enforcement of this Transmission Service Feasibility Study Agreement and each of its provisions shall be governed by the laws of the state of Delaware, without regard to its conflicts of law principles. This Transmission Service Feasibility Study Agreement is subject to all Applicable Laws and Regulations. Each party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.
19. **No Third-Party Beneficiaries**
This Transmission Service Feasibility Study Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the parties, and the obligations herein assumed are solely for the use and benefit of the parties, their successors in interest and where permitted, their assigns.

20. Multiple Counterparts

This Transmission Service Feasibility Study Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

21. No Partnership

This Transmission Service Feasibility Study Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the parties or to impose any partnership obligation or partnership liability upon either party. Neither party shall have any right, power or authority 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, the other party.

22. Severability

If any provision or portion of this Transmission Service Feasibility Study Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the parties shall negotiate in good faith to restore insofar as practicable the benefits to each party that were affected by such ruling, and (3) the remainder of this Transmission Service Feasibility Study Agreement shall remain in full force and effect.

23. Reservation of Rights

The Transmission Provider shall have the right to make a unilateral filing with FERC to modify this Transmission Service Feasibility Study Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and the Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this Transmission Service Feasibility Study Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each party shall have the right to protest any such filing by the other party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Transmission Service Feasibility Study Agreement shall limit the rights of the parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the parties otherwise agree as provided herein.

IN WITNESS WHEREOF, the Transmission Provider and the Interconnection Customer have caused this Transmission Interconnection Feasibility Study Agreement to be executed by their respective authorized officials.

Transmission Provider

By: _____

Name

Title

Date

Eligible Customer

By:

Name

Title

Date