

Exhibit 5

EXHIBIT 5

Corporate Organization Chart

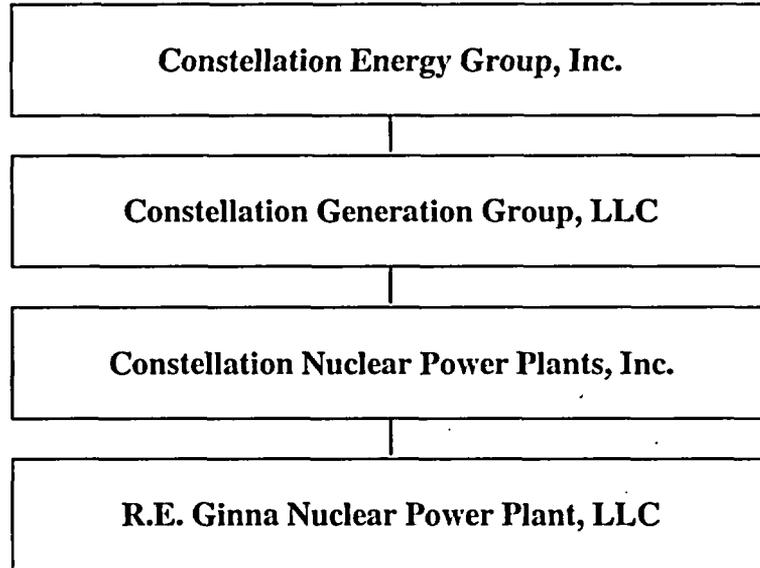


Exhibit 6

EXHIBIT 6
Projected Income Statement
(REDACTED)

(\$Millions)	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Revenues	[THE CONFIDENTIAL ADDENDUM CONTAINS CONFIDENTIAL BUSINESS INFORMATION IN THE FORM OF FINANCIAL DATA]					
PPA						
Market						
Total Revenues						
Operating Expenses	[CONFIDENTIAL ADDENDUM TO BE WITHHELD FROM PUBLIC DISCLOSURE PER 10 CFR § 2.790]					
Nuclear fuel (incl DOE disposal fees)						
O&M, non-outage						
O&M, refueling outage						
Property taxes						
Decommissioning expenses *						
Depreciation						
Total Operating Expenses						
Operating Income						
Other (income) / expense						
Decommissioning fund earnings						
Interest expense						
Total other (income) / expense						
Pretax Income						
Income Taxes						
Net Income After-Tax						

Notes:

**[THE CONFIDENTIAL ADDENDUM CONTAINS CONFIDENTIAL
BUSINESS INFORMATION IN THE FORM OF FINANCIAL DATA]**

**[CONFIDENTIAL ADDENDUM TO BE WITHHELD FROM
PUBLIC DISCLOSURE PER 10 CFR § 2.790]**

EXHIBIT 6 (Continued)
Projected Statement of Operating Cashflows
(REDACTED)

(\$Millions)	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Revenues	[THE CONFIDENTIAL ADDENDUM CONTAINS CONFIDENTIAL BUSINESS INFORMATION IN THE FORM OF FINANCIAL DATA]					
PPA						
Market						
Total Revenues	<hr/>					
Operating Expenses	[CONFIDENTIAL ADDENDUM TO BE WITHHELD FROM PUBLIC DISCLOSURE PER 10 CFR § 2.790]					
Nuclear fuel (capital & DOE disposal fees)						
O&M, non-outage						
O&M, refueling outage						
Property taxes						
Total Operating Expenses	<hr/>					
Capital project expenditures	<hr/>					
Operating Cashflow Before Income Taxes & financing costs	<hr/>					

Notes:

**[THE CONFIDENTIAL ADDENDUM CONTAINS CONFIDENTIAL
BUSINESS INFORMATION IN THE FORM OF FINANCIAL DATA]**

Exhibit 7

Exhibit 7
Projected Opening Balance Sheet (June 30, 2004)

(\$Millions)

Current Assets **[THE CONFIDENTIAL ADDENDUM CONTAINS CONFIDENTIAL
BUSINESS INFORMATION IN THE FORM OF FINANCIAL DATA]**

Non-Current Assets

Plant, property and equipment
Nuclear fuel
Decommissioning trust funds
Intangible Asset (Asset Retirement
Obligation, FAS143)

Other assets, including deferred tax
Total Non-Current Assets

**[CONFIDENTIAL ADDENDUM TO BE WITHHELD FROM
PUBLIC DISCLOSURE PER 10 CFR § 2.790]**

Total Assets

Liabilities

Long-term debt
Decommissioning liability (Asset
Retirement Obligation, FAS143)

Other (including net liabilities for
pension, post-retirement/post-
employment benefits, deferred taxes)

Total Liabilities

Owners Equity

Total Liabilities & Owners Equity

Notes: **[THE CONFIDENTIAL ADDENDUM CONTAINS CONFIDENTIAL
BUSINESS INFORMATION IN THE FORM OF FINANCIAL DATA]**

Exhibit 8

POWER PURCHASE AGREEMENT

BETWEEN

CONSTELLATION POWER SOURCE, INC.

AND

ROCHESTER GAS AND ELECTRIC CORPORATION

DATED AS OF

NOVEMBER 24, 2003

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CONFIDENTIAL

POWER PURCHASE AGREEMENT

This Power Purchase Agreement (this "Agreement"), dated as of November 24, 2003 by and between Constellation Power Source, Inc. ("SELLER"), a Delaware corporation with offices located in Baltimore, Maryland, and Rochester Gas And Electric Corporation ("BUYER"), a New York corporation with offices located in Rochester, New York (SELLER and BUYER are each referred to herein as a "Party", and collectively as the "Parties").

WITNESSETH:

WHEREAS, an affiliate (the "Transaction Affiliate") of SELLER and BUYER have entered into an Asset Purchase Agreement dated as of November 24, 2003 (the "APA") pursuant to which BUYER has agreed to sell, and Transaction Affiliate has agreed to purchase, the R.E. Ginna Nuclear Power Plant and certain facilities and other assets associated therewith and ancillary thereto (collectively, the "Plant");

WHEREAS, simultaneously with the execution of this Agreement, Transaction Affiliate and BUYER have executed an Interconnection Agreement dated as of November 24, 2003 (the "ICA") governing the terms of interconnection of the Plant with the Transmission System, as that term is defined in the ICA; and

WHEREAS, on or before the Closing (as defined herein), Transaction Affiliate and SELLER will have executed a power purchase agreement under which capacity and energy produced by the Plant will be sold by Transaction Affiliate to SELLER, which capacity and energy will then be sold by SELLER to BUYER in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of these premises, the mutual agreements set forth herein and other good and valuable consideration, and intending to be legally bound, the Parties agree as follows:

1. DEFINITIONS.

In addition to the terms defined elsewhere herein, the following capitalized terms shall have the meaning stated below when used in this Agreement:

- 1.1 "Affiliate" means, with respect to a Party, a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by or is under common control with such Party.

- 1.2 "Ancillary Services" shall mean those services necessary to support the transmission of Energy from generators to loads, while maintaining reliable operation of the New York State power system in accordance with Good Utility Practice and reliability rules. Ancillary Services include scheduling, system control and dispatch service, reactive supply and voltage support service, regulation and frequency response service, energy imbalance service, operating reserve service (including spinning reserve, 10-minute non-synchronized reserves and 30-minute reserves), and black start capability, all as defined in Section 2.4 and Schedules 1-5 of the NYISO Services Tariff.
- 1.3 "Availability Factor" shall equal 1 less the NYISO-determined equivalent forced outage rate applicable to a particular Capability Period.
- 1.4 "Base Energy" shall have the definition set forth in Section 5.1(a).
- 1.5 "Base Unforced Capacity" shall have the definition set forth in Section 4.1.
- 1.6 "Bilateral Transaction" shall mean a transaction between two or more parties for the purchase and/or sale of Unforced Capacity and/or Energy, as defined in Section 2.16 of the NYISO Services Tariff.
- 1.7 "Breaching Party" shall have the definition set forth in Section 10.1.3(a).
- 1.8 "Business Day" means a 24-hour period ending at 5:00 p.m. prevailing Eastern Time, other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in New York, New York are authorized by law, or other governmental action, to close.
- 1.9 "Capability Period" shall mean six-month periods which are established as follows: (a) from May 1 through October 31 of each year ("Summer Capability Period"); and (b) from November 1 of each year through April 30 of the following year ("Winter Capability Period"), as defined in Section 2.17 of the NYISO Services Tariff.
- 1.10 "Capability Period Percentage" shall mean the applicable percentage so identified on Schedule B.
- 1.11 "Capacity Price" shall mean the applicable price so identified in Schedule A.
- 1.12 "Claiming Party" shall have the definition set forth in Section 22.2.
- 1.13 "Closing" shall have the definition set forth in the APA.
- 1.14 "Closing Date" shall have the definition set forth in the APA.

- 1.15 "Company Representative" shall have the definition set forth in Section 11.1.
- 1.16 "Contract Energy" shall mean either the Base Energy or Incremental Energy that has been scheduled by SELLER, in accordance with this Agreement.
- 1.17 "Contract Price" shall mean the Monthly Price or the Capacity Price, as applicable.
- 1.18 "Contract Unforced Capacity" shall mean the sum of the Base Unforced Capacity and the Uprated Capacity.
- 1.19 "Contract Year" shall mean each twelve (12) month period during the Term, starting with the Initial Day.
- 1.20 "Credit Rating" shall mean, with respect to an entity on any date of determination, the respective rating then assigned to its unsecured and senior long-term debt or deposit obligations (not supported by third-party credit enhancement) by Standard & Poor's Rating Group (a division of McGraw-Hill), Moody's Investors Service, Inc., or their respective successors.
- 1.21 "Day-Ahead Market" or "DAM" shall mean the NYISO administered market in which Energy and/or Ancillary Services are scheduled and sold day-ahead consisting of the day-ahead scheduling process, price calculations and settlements, as defined at Definition 1.7d of the NYISO OATT.
- 1.22 "DAM Base Net Electric Output" shall mean, for any hour, the Day-Ahead Market expected Energy production to be generated by the Plant less (a) the Energy used to operate the Plant, but excluding Off-Site Power Service (as such term is defined in the ICA) used to operate the Plant, (b) the Energy used in the delivery of electric power to the Delivery Point (i.e., losses), and (c) the Day-Ahead Market scheduled Energy production associated with the Uprated Capacity applicable to that hour; provided, however, that for purposes of this Agreement, such DAM Base Net Electric Output shall not be less than zero. Such DAM Base Net Electric Output shall be estimated using Good Utility Practice.
- 1.23 "DAM Incremental Net Electric Output" shall mean, for any hour, the Day-Ahead Market expected Energy production to be generated by the Plant and associated with the Uprated Capacity applicable to that hour; provided, however, that for purposes of this Agreement, such DAM Incremental Net Electric Output shall not be less than zero. Such DAM

Incremental Net Electric Output shall be estimated using Good Utility Practice.

- 1.24 "Delivery Point" shall mean the "Delivery Point" as that term is defined in the ICA and as indicated on the one-line diagram included as part of Appendix A of the ICA.
- 1.25 "Dependable Maximum Net Capability" or "DMNC" shall mean the sustained maximum net output of the Plant, as demonstrated by the performance of a test or through actual operation, averaged over a continuous period of time, and as defined in Section 2.40 of the NYISO Services Tariff.
- 1.26 "Early Termination Date" shall have the meaning set forth in Section 10.2.
- 1.27 "Effective Date" shall mean the date of the Closing.
- 1.28 "Energy" shall mean a quantity of electricity that is bid, produced, consumed, sold, or transmitted over a period of time, and measured or calculated in megawatt hours ("MWh").
- 1.29 "Energy Price" shall mean the prices so identified in Schedule A.
- 1.30 "Force Majeure" shall have the definition set forth in Section 22.1.
- 1.31 "Good Utility Practice" shall mean any of the practices, methods and acts engaged in or generally accepted by the electric generation, transmission, and distribution industry in the same geographic region in the United States during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expediency, and compliance with applicable laws and regulations. Good Utility Practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather to acceptable practices, methods, or acts generally accepted in the generation, transmission, and distribution industry in the United States. Good Utility Practice shall include any of the practices, methods, and acts endorsed or enacted by the Nuclear Regulatory Commission, the North American Electric Reliability Council, the Northeast Power Coordinating Council, the New York State Reliability Council, the System Operator (as defined in the ICA), the NYISO, the Federal Energy Regulatory Commission, the New York Public Service Commission, the Occupational Safety and Health Administration, or a

regional transmission organization, as they may be amended or superseded, including the methods, practices and acts of any successor organization to the foregoing entities.

- 1.32 "Governmental Authority" shall mean any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.
- 1.33 "Impaired Party" shall have the definition set forth in Section 21.1.
- 1.34 "Incremental Energy" shall have the definition set forth in Section 5.1(b).
- 1.35 "Incremental Unforced Capacity" shall have the definition set forth in Section 4.2.
- 1.36 "Initial Day" shall have the definition set forth in Section 3.1.
- 1.37 "Interim Period" shall have the definition set forth in Section 3.2.
- 1.38 "Interest Rate" means, for any date, the interest equal to the prime rate of Citibank (or its successor) as may from time to time be published in *The Wall Street Journal* under "Money Rates", plus two percent (2%).
- 1.39 "Investment Grade" shall mean having a Credit Rating of Baa3 or better by Moody's Investor's Service, Inc. (or its successor), or BBB- or better by Standard & Poor's Rating Group (a division of McGraw Hill) (or its successor).
- 1.40 "Monthly Off-Peak Price" shall mean the product of (a) the Energy Price times (b) the Off-Peak Monthly Energy Price Factor for the applicable calendar month, such prices and factors being set forth in Schedules A and C, respectively.
- 1.41 "Monthly On-Peak Price" shall mean the product of (a) the Energy Price times (b) the On-Peak Monthly Energy Price Factor for the applicable calendar month, such prices and factors being set forth in Schedules A and C, respectively.
- 1.42 "Monthly Price" shall mean the Monthly Off-Peak Price or the Monthly On-Peak Price, as applicable.
- 1.43 "New York Control Area" or "NYCA" shall have the meaning as defined Section 2.110 of the NYISO Services Tariff.

- 1.44 "New York Independent System Operator" or "NYISO" shall mean the not-for-profit corporation established in accordance with orders of the Federal Energy Regulatory Commission to administer the operation of, to provide equal access to, and to maintain the reliability of the bulk-power transmission system in New York State, or any successor organization.
- 1.45 "Non-Breaching Party" shall have the definition set forth in Section 10.1.3.
- 1.46 "NYISO Installed Capacity Manual" shall mean NYISO Installed Capacity Manual, version 4.0, as amended and superseded.
- 1.47 "NYISO OATT" shall mean the New York Independent System Operator Open Access Transmission Tariff revised as of 12/27/99, as amended and superseded.
- 1.48 "NYISO Services Tariff" shall mean the New York Independent System Operator Market Administration and Control Area Services Tariff revised as of 11/17/99, as amended and superseded.
- 1.49 "Off-Peak" shall mean the hours between 11:00 P.M. and 7:00 A.M., inclusive, prevailing Eastern Time, Monday through Friday, and all hours on Saturday and Sunday, and NERC-defined holidays, or as otherwise decided by the NYISO.
- 1.50 "On-Peak" shall mean the hours between 7:00 A.M. and 11:00 P.M. inclusive, prevailing Eastern Time, Monday through Friday, except NERC-defined holidays, or as otherwise decided by the NYISO.
- 1.51 "Performance Assurance" shall have the definition set forth in Section 21.2.
- 1.52 "Replacement Price" shall mean the price at which BUYER, acting in a commercially reasonable manner, purchases at the Delivery Point replacement Contract Energy and/or Contract Unforced Capacity not scheduled, delivered or provided by SELLER as required pursuant to this Agreement, plus (a) costs reasonably incurred by BUYER in purchasing such Contract Energy and/or Contract Unforced Capacity (excluding Taxes for which BUYER would otherwise be responsible under Section 5.5), and (b) additional transmission charges, if any, reasonably incurred by BUYER to the Delivery Point for such Contract Energy and/or Contract Unforced Capacity not scheduled, delivered or provided as determined by BUYER in a commercially reasonable manner; provided, however, in no event shall BUYER be required to utilize or change its utilization of its own or controlled assets or market

positions to minimize SELLER's liability; and, provided further, however, that in no event shall the Replacement Price for Unforced Capacity be greater than the NYISO deficiency charge as defined on Sheet No. 144A of the NYISO Services Tariff.

- 1.53 "Requesting Party" shall have the definition set forth in Section 21.1.
- 1.54 "Rest of State" shall mean such Load Zones described in the NYISO Services Tariff, which as of the Effective Date includes all New York Control Area LBMP Load Zones other than LBMP Load Zones J and K.
- 1.55 "Sales Price" shall mean the price at which SELLER, acting in a commercially reasonable manner, resells at the Delivery Point any Contract Energy and/or Contract Unforced Capacity not accepted by BUYER, deducting from such proceeds any (a) costs reasonably incurred by SELLER in reselling such Contract Energy and/or Contract Unforced Capacity, and (b) additional transmission charges, if any, reasonably incurred by SELLER in delivering such Contract Energy and/or Contract Unforced Capacity to the third party purchasers; provided, however, in no event shall SELLER be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize BUYER's liability.
- 1.56 "Settlement Amount" shall have the meaning as set forth in Section 10.3.
- 1.57 "Term" shall have the definition set forth in Section 3.1.
- 1.58 "Unforced Capacity" shall mean Unforced Capacity, as that term is defined in Section 2.194a of the NYISO Services Tariff, or a successor product if Unforced Capacity is replaced by a different capacity or reliability product, which qualifies as NYISO Rest of State and that otherwise satisfies all of the NYISO's current and future Unforced Capacity requirements (or the requirements of Unforced Capacity's successor product) contained in the NYISO Services Tariff, including the NYISO Installed Capacity Manual, rules and procedures.
- 1.59 "Uprate Notice" shall have the definition set forth in Section 4.2.
- 1.60 "Uprated Capacity" shall mean the total amount of Incremental Unforced Capacity for a Capability Period.

2. CONDITION PRECEDENT.

It is a condition precedent to the obligations of SELLER and BUYER under this Agreement that the Closing shall have occurred. This Agreement shall become effective, subject to Article 14, on the Effective Date. Notwithstanding any other

provision of this Agreement, this Agreement shall become ineffective and shall terminate automatically if the APA terminates, without the Closing occurring and the Plant being transferred to the Transaction Affiliate.

3. TERM.

3.1 Base Term. The term of this Agreement (the "Term") shall commence after the Effective Date on the first day of the month following the month in which the Effective Date occurs (the "Initial Day") and shall expire at 12:00 midnight prevailing Eastern Time on the day immediately prior to the day that is the tenth (10th) year anniversary of the Initial Day.

3.2 Interim Period. BUYER shall provide an invoice to SELLER on or before the tenth (10th) day of the month following the month in which the Closing Date occurs showing the quantity of Unforced Capacity credit received by BUYER at the Delivery Point for the period from the Closing Date to the day immediately before the Initial Day (the "Interim Period"), and the quantity of Energy delivered to BUYER at the Delivery Point during the Interim Period. The invoice shall be accompanied by (a) a payment by BUYER for that invoiced quantity of Unforced Capacity, which payment will equal the product of (i) the amount of invoiced Unforced Capacity, and (ii) the applicable Capacity Price set forth in Schedule A for the Interim Period, and (b) a payment by BUYER for that invoiced quantity of Energy, which payment will equal the product of (i) the amount of invoiced Energy, and (ii) the applicable Monthly Price for the Interim Period. No later than two (2) Business Days before the Closing Date, SELLER and BUYER shall enter into an appropriate billing and scheduling arrangement to ensure that the SELLER receives proper compensation, in accordance with this Section 3.2, for the Unforced Capacity and Energy provided and delivered to BUYER during the Interim Period.

4. UNFORCED CAPACITY.

4.1 Base Unforced Capacity. SELLER shall schedule and provide to BUYER, and BUYER shall accept and pay SELLER for, an amount of Unforced Capacity ("Base Unforced Capacity"), for each Capability Period, or portion thereof, during the Term, equal to the product of (a) the applicable Capability Period Percentage, (b) the DMNC of the Plant for that Capability Period, and (c) the Availability Factor.

4.2 Incremental Unforced Capacity. The amount of Unforced Capacity to be provided to and purchased by BUYER pursuant to this Agreement shall be increased in the following amounts: (a) five percent (5%) of the Base Unforced Capacity (the "First Uprate"), and (b) twelve percent

(12%) of the Base Unforced Capacity (the "Second Uprate") as in effect prior to the First Uprate. Each of the First Uprate and the Second Uprate will become effective after SELLER's provision of a written notice to BUYER of such effectiveness (an "Uprate Notice"), which notice shall be provided no later than sixty (60) days prior to the start of the Capability Period in which BUYER anticipates the respective uprate will take effect; provided however, that the First Uprate will become effective no earlier than the first day of the twenty-ninth (29th) full calendar month after the Effective Date and the Second Uprate will become effective no earlier than the first day of the forty-seventh (47th) full calendar month after the Effective Date. The amount of increased Unforced Capacity set forth in an Uprate Notice shall be referred to as "Incremental Unforced Capacity." With SELLER'S delivery of an Uprate Notice to BUYER, the Uprated Capacity in effect from the date set forth in such Uprate Notice shall increase by the amount of Incremental Unforced Capacity set forth in such Uprate Notice; provided however, that SELLER shall not be obligated to provide such Incremental Unforced Capacity if the associated uprate at the Plant has not been completed by the date set forth in the Uprate Notice; and provided further, that any delay in the provision of Incremental Unforced Capacity by SELLER by the date set forth in an Uprate Notice shall not foreclose SELLER from providing such Incremental Unforced Capacity to BUYER at a later date during the same Capability Period upon as much notice to BUYER as is practicable. SELLER shall schedule and provide to BUYER, and BUYER shall accept and pay for, the Uprated Capacity for each Capability Period, or portion thereof, during the Term equal to the product of (a) the applicable Capability Period Percentage, (b) the applicable Uprated Capacity during that Capability Period, and (c) the Availability Factor. If and when Uprated Capacity becomes available to BUYER under this Agreement, it shall remain in effect only during the remainder of the Term.

- 4.3 NYISO. SELLER shall use good faith efforts, including the timely filing of required documents with the NYISO, to ensure that the specified amounts of Contract Unforced Capacity are properly credited to BUYER; provided, however, in no event will SELLER be required to contract for, or take any other measure to obtain, additional Unforced Capacity to satisfy its obligations under this Article 4.

5. **ENERGY.**

- 5.1 **Sale of Energy.** During the Term, SELLER agrees to schedule, deliver and sell, and BUYER agrees to accept delivery of and purchase, at the Delivery Point, Contract Energy.

- (a) **Base Energy.** During each hour of each Capability Period, or portion thereof, of the Term, SELLER shall schedule and deliver to the Delivery Point, and BUYER shall accept, an amount of Energy equal to the product of (i) the applicable Capability Period Percentage times (ii) the DAM Base Net Electric Output (such amount of Energy defined herein as the "Base Energy").
- (b) **Incremental Energy.** During each hour of each Capability Period, or portion thereof, of the Term, SELLER shall schedule and deliver, and BUYER shall accept, an amount of Energy equal to the product of (i) the applicable Capability Period Percentage times (ii) the DAM Incremental Net Electric Output (such amount of Energy defined herein as the "Incremental Energy").

5.2 Scheduling. The Parties agree that this Agreement is "unit contingent" and, as such, SELLER shall not be obligated to schedule or deliver any amount of Energy except as otherwise provided in Section 5.1 and this Section 5.2. SELLER shall be obligated to (a) schedule the amounts of Base Energy and Incremental Energy described in Section 5.1, and (b) deliver what is scheduled, both as provided in Section 5.1 and Section 5.2.

5.2.1 Scheduling of Contract Energy. SELLER shall provide the NYISO with a schedule for a Bilateral Transaction in the Day-Ahead Market, in accordance with the NYISO Services Tariff, for the Contract Energy to be delivered to BUYER under Section 5.1 of this Agreement. SELLER shall be solely responsible for all charges imposed by the NYISO as a result of any failure by SELLER to deliver the amount of Contract Energy specified in the Bilateral Transaction schedule to the Delivery Point. BUYER shall be solely responsible for all charges imposed by the NYISO as a result of any failure by BUYER to receive or accept the amount of Contract Energy specified in the Bilateral Transaction.

5.2.2 NYISO. In addition to those steps described in Section 5.2.1, SELLER shall use good faith efforts, including the timely filing of required documents with the NYISO, to cause the Contract Energy that is scheduled hereunder to be delivered to BUYER at the Delivery Point.

5.2.3 Modifications of NYISO Rules or Procedures. To the extent that a modification or change in NYISO-adopted rules or procedures which are effective as of the date of this Agreement (including but not limited to, a modification or

change to the NYISO OATT, the NYISO Services Tariff or the NYISO Installed Capacity Manual) affects the administrative process of scheduling so as to impact a Party's ability to schedule, the Parties agree to cooperate to achieve the scheduling of the Contract Energy and Contract Unforced Capacity in the most efficient and cost effective manner; provided, however, that if achieving such scheduling would have a material economic effect on either Party, then the Parties shall negotiate a reasonable arrangement to share the additional costs of such scheduling.

- 5.3 Other Costs.** With regard to Contract Energy delivered by SELLER to BUYER pursuant to this Agreement at the Delivery Point, SELLER shall bear no cost or liability for the Contract Energy beyond the Delivery Point.
- 5.4 Title and Risk of Loss.** Title and risk of loss transfers from SELLER to BUYER upon receipt of the Contract Energy at the Delivery Point.
- 5.5 Taxes.** Taxes applicable to the Energy delivered by SELLER to BUYER pursuant to this Agreement, or to transactions involving such Energy (other than taxes based on SELLER's and/or BUYER's net income), shall be borne by BUYER if related to the period or arising at or after receipt at the Delivery Point of such Energy, and shall be borne by SELLER if related to the period or arising before receipt at the Delivery Point of such Energy.
- 5.6 Outages.** SELLER shall schedule all Plant outages consistent with Good Utility Practice, and in accordance with the terms of the ICA. SELLER shall provide BUYER with as much advance notice as possible of scheduled outages, unscheduled outages, power reductions, and deratings. Except as may reasonably be required by Good Utility Practice, SELLER shall not schedule any portion of a refueling outage during the months of June, July or August.

6. OTHER PRODUCTS AND SALES.

This Agreement does not provide for the delivery, provision, or sale of any Ancillary Services to BUYER. Nothing herein shall require SELLER to deliver, provide, or sell any Ancillary Services to BUYER. Nothing herein shall preclude SELLER from selling any Ancillary Service, Energy, Unforced Capacity or other product or service or quantity thereof associated with the Plant that is not needed to fulfill SELLER's obligations hereunder.

7. PRICE.

The price for both Unforced Capacity (Base and Incremental) and Contract Energy (Base and Incremental) provided pursuant to Articles 4 and 5 respectively of this Agreement shall be determined using the data set forth in Schedules A and C. The amounts payable by BUYER to SELLER shall be calculated monthly, and shall be equal to the sum of the following:

- (a) the amount of Contract Energy (in MWh) delivered by SELLER to the Delivery Point, or otherwise received by BUYER at the Delivery Point, each hour during the preceding month multiplied by the applicable Monthly Price; and
- (b) the amount of Contract Unforced Capacity (in kW/month) provided by SELLER during the preceding month multiplied by the applicable Capacity Price.

Except as set forth in this Article 7, no other amount shall be payable by BUYER to SELLER for Contract Unforced Capacity or Contract Energy provided or delivered, as applicable, by SELLER pursuant to this Agreement.

8. BILLINGS AND PAYMENTS.

8.1 Payment. On or before the tenth (10th) day of each month, SELLER shall provide BUYER with an invoice setting forth (a) the quantity of Contract Energy (in MWh) which was delivered to BUYER, or otherwise received by BUYER, at the Delivery Point in the preceding month, (b) and the amount of Unforced Capacity (in kW/month) credited to BUYER by the NYISO for the preceding month. BUYER shall remit the amount due by wire transfer, or as otherwise agreed, pursuant to SELLER's invoice instructions, on the later of fifteen days from receipt of SELLER's invoice or the twentieth (20th) day of the calendar month in which the invoice is rendered. In the event the twentieth (20th) day is not a Business Day, then payment shall be made upon the next following Business Day.

8.2 Overdue Payments. Overdue payments shall accrue interest at the Interest Rate from, and including, the due date to, but excluding, the date of payment.

8.3 Billing Dispute. If BUYER, in good faith, disputes an invoice, BUYER shall notify SELLER in writing within ten (10) Business Days of receipt of the invoice of the basis for the dispute and pay the portion of such statement not in dispute no later than the due date. If any amount withheld under dispute by BUYER is ultimately determined (under the terms herein) to be due to SELLER, it shall be paid within three (3)

Business Days of such determination along with interest accrued at the Interest Rate until the date paid. Inadvertent overpayments shall be returned by SELLER upon request or deducted by SELLER from subsequent invoices, with interest accrued at the Interest Rate until the date paid or deducted.

- 8.4 **Right of Offset.** A party (the "Invoking Party") hereto shall have the right to offset and/or net payments for any amounts due to the other Party against any amounts that are due the Invoking Party under this Agreement or any other agreement between SELLER and BUYER.

9. **REMEDIES FOR FAILURE TO DELIVER/RECEIVE.**

- 9.1 **SELLER Failure.** If SELLER fails to schedule and/or deliver all or part of the Contract Energy or to provide Contract Unforced Capacity as required under this Agreement, and, with respect to a failure to schedule, such failure is not excused by the Plant's unavailability, or, with respect to a failure to schedule and deliver Contract Energy or to provide Contract Unforced Capacity, such failure is not excused by Force Majeure or by BUYER's failure to perform, then SELLER shall pay BUYER, within five (5) Business Days of invoice receipt, an amount for such Contract Energy and/or Contract Unforced Capacity not scheduled, delivered or provided equal to the product of (a) the quantity of such Contract Energy and/or Contract Unforced Capacity not scheduled, delivered or provided, and (b) the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price; provided however, that the Plant's unavailability shall not excuse SELLER's failure to so schedule or deliver if the unavailability is caused by SELLER's or the Transaction Affiliate's gross negligence. The invoice of such amount shall include a written statement explaining in reasonable detail the calculation of such amount.
- 9.2 **BUYER Failure.** If BUYER fails to accept all or part of the Contract Energy or Contract Unforced Capacity delivered or provided by SELLER pursuant to this Agreement, and such failure is not excused by Force Majeure or by SELLER's failure to perform, then BUYER shall pay SELLER, within five (5) Business Days of BUYER'S invoice receipt, an amount for such Contract Energy and/or Contract Unforced Capacity not accepted equal to the product of (a) the quantity of such Contract Energy and/or Contract Unforced Capacity not accepted and (b) the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice of such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

10. **DEFAULT, TERMINATION AND LIABILITY.**

10.1 **Breach, Cure and Default.**

10.1.1 **Breach.** A breach of this Agreement shall occur upon the failure by a Party to perform or observe any material term or condition of this Agreement as described in Section 10.1.2. of this Agreement; provided, however, that the SELLER's or the BUYER's failure to deliver and/or provide, or to accept, as applicable, the Contract Energy and/or Contract Unforced Capacity shall be considered a breach of this Agreement, the sole cure and remedy for which is set forth in Article 9 of this Agreement.

10.1.2 **Events of Breach.** A breach of this Agreement shall include: (a) the failure to pay any amount due, unless such amount is disputed in compliance with Section 8.3 of this Agreement; (b) except as provided in Article 9 of this Agreement, the failure to comply with any material term or condition of this Agreement; (c) the appointment of a receiver, liquidator or trustee for a Party, or of any property of a Party, if such receiver, liquidator or trustee is not discharged within thirty (30) days; (d) the entry of a decree adjudicating a Party bankrupt or insolvent if such decree is continued undischarged and unstayed for a period of thirty (30) days; (e) the filing by a Party of a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law; or (f) the failure to provide Performance Assurance, as required pursuant to Article 21 hereof.

10.1.3 **Cure and Default.**

(a) With respect to a breach under Section 10.1.2(a) of this Agreement, the Party in breach (the "Breaching Party") shall be in default of this Agreement if it fails to cure such non-payment within three (3) Business Days after receipt of a written demand for payment from the other Party (the "Non-Breaching Party").

(b) With respect to a Party's breach under Section 10.1.2(b) of this Agreement, the Breaching Party shall be in default of this Agreement (i) if it fails to cure its breach within thirty (30) days after its receipt of written notice of such breach from the Non-Breaching Party providing reasonable detail of such breach, or (ii) if the breach is such that it cannot be cured within thirty (30) days, the Breaching Party does not in good

faith commence within thirty (30) days all such steps as are commercially reasonable efforts that are necessary and appropriate to cure such breach and thereafter diligently pursue such steps to completion.

(c) With respect to the events described in Section 10.1.2(c), (d) or (e), the Breaching Party shall be in default of this Agreement immediately upon the occurrence of any such events.

(d) With respect to a Party's breach under Section 10.1.2(f) of this Agreement, the Breaching Party shall be in default if it fails to cure such breach within three (3) Business Days after receipt of a written demand for Performance Assurance.

10.1.4 Remedies Upon Default. Upon a Party's default as described in Section 10.1.3, the non-defaulting Party shall be entitled to: (i) suspend performance of its obligations hereunder immediately upon delivering written notice to the Breaching Party of its intent to exercise its suspension rights; (ii) continue performance under this Agreement and exercise such other rights and remedies as it may have in equity, at law or under this Agreement; or (iii) terminate this Agreement in accordance with Section 10.2 hereof.

10.1.5 Waiver. No provision of this Agreement may be waived except by mutual agreement of the Parties as expressed in writing and executed by each Party. Any waiver that is not in writing and executed by each Party shall be null and void from its inception. No express waiver in any specific instance as provided in a required writing shall be construed as a waiver in future instances unless specifically so provided in the required writing. No express waiver of any specific default shall be deemed a waiver of any other default whether or not similar to the default waived, or a continuing waiver of any other right or default by a Party. The failure of any Party to insist in any one or more instances upon the strict performance or any of the provisions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment for the future of such strict performance of such provision or the exercise of such right. Further, delay by any Party in enforcing its rights under this Agreement shall not be deemed a waiver of such rights.

10.2 Right of Early Termination. If a Breaching Party is deemed to be in default of this Agreement as described in Section 10.1.3, the Non-

Breaching Party shall have the right to designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective; as an early termination date ("Early Termination Date"). Upon the occurrence of an Early Termination Date, this Agreement shall terminate and no further payments or deliveries, or receipt of deliveries under this Agreement will be required to be made, except as provided in Section 10.4. The amount payable in respect of a default and any early termination of this Agreement shall be determined pursuant to Section 10.3.

10.3 Remedies Upon Designation of an Early Termination Date; Settlement Amount. Upon the designation of an Early Termination Date, the Non-Breaching Party shall calculate a Settlement Amount. The "Settlement Amount" shall be an amount equal to the total losses, costs, and gains in connection with such early termination of this Agreement, including, any loss of bargain, cost of funding or, at the election of such Non-Breaching Party, but without duplication and consistent with such Non-Breaching Party's obligations to mitigate such losses and costs, losses and/or costs (including employee and consultant costs and reasonable attorneys' fees) incurred as a result of its obtaining, terminating, establishing or reestablishing any hedge in connection with this Agreement or replacement of this Agreement, and any losses and costs in respect of performance (or failure to perform) under this Agreement on or before the time of such termination. For purposes of this Section 10.3, "gains" shall mean an amount equal to the present value of the economic benefit to a Party, if any (exclusive of costs), resulting from the early termination of this Agreement. All losses, costs, and gains under this Section 10.3 shall be calculated in a commercially reasonable manner.

For purposes of determining the Settlement Amount pursuant to this Section 10.3, the applicable quantity of Contract Capacity and Contract Energy shall be based upon the Unforced Capacity of the Plant as of the Early Termination Date. If, after the calculation of the Settlement Amount in accordance with this Section 10.3, the Breaching Party would be owed the Settlement Amount, the Non-Breaching Party shall be entitled, at its option, and in its discretion, to set-off against such Settlement Amount any amounts due and owing by the Breaching Party to the Non-Breaching Party under any other agreements, instruments or undertakings between the Breaching Party and the Non-Breaching Party. The remedy provided in this Section 10.3 shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by law, contract or otherwise).

- 10.4 Notice of Payment of Settlement Amount.** As soon as practicable after an Early Termination Date, the Non-Breaching Party shall notify the Breaching Party of the amount of the Settlement Amount. The notice shall include a written statement explaining in reasonable detail the calculation of such amount and shall indicate the underlying assumptions, quotations, prices and forecasts, used to calculate the same. The Settlement Amount shall be paid by the Party owing such amount within two (2) Business Days after such notice. If the Breaching Party disagrees with the calculation of the Settlement Amount, the undisputed portion of such amount shall be paid and the Breaching Party shall have the right to dispute such calculation in accordance with the terms and conditions of this Agreement.
- 10.5 Additional Remedies.** Subject to the provision set forth in Section 10.1.1, a Party's right to terminate as the result of an occurrence of a default of this Agreement by any other Party shall not serve to limit the rights such Non-Breaching Party may have under law or equity as a result of such default.
- 10.6 Mitigation of Damages.** Except as provided in Sections 1.52 (Replacement Price) and 1.55 (Sales Price), a Non-Breaching Party has a duty to mitigate damages in the event of a default of this Agreement. The provisions of this Section 10.6 shall survive termination of this Agreement.
- 10.7 Exclusion of Damages.** Except as otherwise expressly provided in this Agreement, neither Party shall be liable for special, indirect, incidental, punitive or consequential damages (including, but not limited to, loss of profits or revenues, loss of use of any property, cost of substitute equipment, facilities or services, downtime costs or claims of third parties for such damages) under, arising out of, due to, or in connection with its performance or non-performance of this Agreement or any of its obligations herein, whether based on contract, tort (including, without limitation, negligence), strict liability, warranty, indemnity or otherwise. The provisions of this Section 10.7 shall survive termination of this Agreement.
- 10.8 Liquidated Damages.** The Parties acknowledge that in the event of certain breaches of this Agreement, the Non-Breaching Party will suffer substantial damages, and such damages will be difficult or impossible to quantify. As such, for certain breaches of this Agreement, including those described in Article 9, the Parties have agreed to liquidate damages. The Parties hereby agree that such liquidated damages provided in this Agreement are reasonable projections of the damages and hereby waive any defense as to the validity of those liquidated

damages on the grounds that they are void as penalties or are not reasonably related to actual damages.

11. CONTRACT ADMINISTRATION AND OPERATION.

11.1 Company Representative. SELLER and BUYER shall each appoint a representative ("Company Representative") who will be duly authorized to act on behalf of the Party that appoints him/her, and with whom the other Party may consult at all reasonable times, and whose instructions, requests, and decisions shall be binding on the appointing Party as to all matters pertaining to the administration of this Agreement.

11.2 Record Retention and Access. SELLER and BUYER shall each keep complete and accurate records and all other data required by either of them for the purpose of proper administration of this Agreement, including such records as may be required by state or federal regulatory authorities or the NYISO. All such records shall be maintained for a minimum of five (5) years after the creation of the record or data. SELLER and BUYER, on a confidential basis, will provide reasonable access to records kept pursuant to this Section 11.2. The Party seeking access to such records shall pay 100% of any out-of-pocket costs the other Party incurs to provide such access.

11.3 Notices. All notices pertaining to this Agreement not explicitly permitted to be in a form other than writing shall be in writing and shall be given by same day or overnight delivery, electronic transmission, certified mail, or first class mail. Any notice shall be given to the other Party as follows:

If to SELLER:

Constellation Power Source, Inc.
111 Market Place
Suite 500
Baltimore, MD 21202
Attn: Contract Administration
Fax: (410) 468-3540

With a copy to:

Constellation Power Source, Inc.
111 Market Place
Suite 500
Baltimore, MD 21202
Attn: General Counsel

Fax: (410) 468-3499

If to BUYER:

Rochester Gas And Electric Corporation
c/o New York State Electric & Gas Corporation
18 Link Drive
Binghamton, NY 13902
Attn: Manager – Electric Supply
Fax: (607) 762-8885

With a copy to:

Rochester Gas And Electric Corporation
c/o New York State Electric & Gas Corporation
18 Link Drive
Binghamton, NY 13902
Attn: Director – Supply
Fax: (607) 771-0798

If given by electronic transmission (including telex, facsimile, e-mail or telecopy), notice shall be deemed given on the date received and shall be confirmed by a written copy sent by first class mail. If sent in writing by certified mail, notice shall be deemed given on the second Business Day following deposit in the United States mails, properly addressed, with postage prepaid. If sent by same-day or overnight delivery service, notice shall be deemed given on the day of delivery. SELLER and BUYER may, by written notice to the other, change its representative(s), including its Company Representative, and the address to which notices are to be sent.

12. BUSINESS RELATIONSHIP.

- 12.1** This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.
- 12.2** Each Party shall be solely liable for the payment of all wages, taxes, and other costs related to the employment by such Party of persons who perform this Agreement, including all federal, state, and local income, social security, payroll and employment taxes and statutorily-

mandated workers' compensation coverage. None of the persons employed by either Party shall be considered employees of the other Party for any purpose.

13. CONFIDENTIALITY.

Except as otherwise required by law, each Party shall keep confidential the terms and conditions of this Agreement and the transactions undertaken hereto; provided, that each Party may provide this Agreement to any of its Affiliates, and each Party is responsible for the confidential treatment of this Agreement by its respective Affiliates. If a Party is required to file this Agreement with any regulatory body or court, it shall seek trade secret protection from such authority and notify the other Party of the requirement. The obligations of the Parties under this Article 13 shall remain in full force and effect for three (3) years following the expiration or termination of this Agreement. Notwithstanding any other provision in this Article 13, each Party may disclose this Agreement and the terms thereof in order to satisfy its reporting obligations to the Federal Energy Regulatory Commission ("FERC"), the Department of Energy ("DOE"), the Nuclear Regulatory Commission ("NRC"), or any other Governmental Authority without the other Party's consent; provided however, that with respect to disclosure in connection with reporting requirements to a Governmental Authority other than FERC, DOE, and the NRC, SELLER shall provide prior written notice of the proposed disclosure to BUYER and a reasonable opportunity for BUYER to take steps to obtain trade secret or other proprietary status for this Agreement; and provided further, however, that SELLER shall not request trade secret status from the New York Public Service Commission ("NYPSC") for any part of this Agreement disclosed by SELLER to FERC, DOE, or the NRC that becomes part of the public domain.

14. GOVERNMENT REGULATION.

This Agreement and all rights and obligations of the Parties hereunder are subject to all applicable federal, state and local laws and all duly promulgated orders and duly authorized actions of governmental authorities having proper and valid jurisdiction over the terms of this Agreement. To the extent required, this Agreement shall be filed for its effectiveness with the NYPSC under section 110(4) of the New York Public Service Law.

15. GOVERNING LAW/CONTRACT CONSTRUCTION.

This Agreement shall be interpreted, construed, and governed by the law of the State of New York, except for its conflicts of law provisions. For purposes of contract construction, or otherwise, this Agreement is the product of negotiation and neither Party to it shall be deemed to be the drafter of this Agreement or any part hereof. The Section and Subsection headings of this Agreement are for

convenience only and shall not be construed as defining or limiting in any way the scope or intent of the provisions hereof.

16. AMENDMENT.

16.1 The Parties may not modify, amend, or supplement this Agreement except by a writing signed by the Parties.

16.2 This Agreement is not subject to change under Section 205 and 206 of the Federal Power Act, as either section may be amended or superseded, absent the mutual agreement of BUYER and SELLER. Consistent with FERC's August 1, 2002 Notice of Proposed Policy Statement in Docket No. PL 02-7-000, the Parties hereby affirm their mutual understanding of this Section 16.2 of this Agreement that the Parties intend that, absent the written agreement of both Parties to the proposed change, the standard for review for changes to this Agreement, proposed by a Party, a non-party, or the FERC acting *sue sponte*, shall be the "public interest" standard of review set forth in the United Gas Pipeline Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). The Parties recognize that FERC's proposed policy statement has not been finalized and that this Agreement is being executed prior to FERC's finalization of its policy. By incorporating the specific language FERC proposed in the proposed policy statement, the Parties are evincing their intent that, to the maximum extent permitted by law, this Agreement is not subject to change by anyone for whatever the reason, absent the mutual written agreement of the Parties.

17. BINDING EFFECT; NO THIRD-PARTY RIGHTS OR BENEFITS.

This Agreement is entered into solely for the benefit of SELLER and BUYER, and their respective successors and permitted assignees, and therefore is not intended and shall not be construed to confer any rights or benefits on any third-party.

18. ENTIRE AGREEMENT.

This Agreement, including references to and incorporation of other agreements and tariffs, contains the complete and exclusive agreement and understanding between the Parties as to its subject matter.

19. ASSIGNMENT.

19.1 **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assignees.

- 19.2 General.** Except as provided in this Article 19, neither Party shall assign or otherwise convey any of its rights, title, or interest under this Agreement without the prior written consent of the other Party hereto (which consent shall not be unreasonably withheld or delayed). Such consent may be withheld if (i) the assignee's creditworthiness or net worth is not equal to or above the assignor's creditworthiness or net worth or (ii) there exists any condition or circumstance with respect to the assignee that the consenting Party reasonably believes will negatively affect the assignee's ability to satisfy the assignor's obligations under this Agreement. The assignor shall promptly reimburse the other Party for all costs and expenses (including reasonable attorneys' fees) directly incurred by the other Party in connection with any such assignments pursuant to this Section 19.2. All assignments under this Section 19.2 shall consist of the same proportion of Contract Energy and Contract Unforced Capacity. Any assignment or delegation made without required consent shall be null and void.
- 19.3 SELLER'S Assignment Rights.** SELLER may, without BUYER's prior written consent, assign all of its rights and obligations hereunder to an Affiliate; provided, however, that SELLER shall not be released from liability under this Agreement following such an assignment in the absence of a written release from BUYER.
- 19.4 BUYER'S Assignment Rights.** BUYER shall have the right to assign this Agreement, in whole or in part, subject to a 50 MW minimum, without the consent of SELLER provided that: (a) BUYER provides ten (10) Business Days prior written notice of such assignment to SELLER, which notice shall identify the assignee, (b) the assignee agrees in writing to assume all of the liabilities and obligations under this Agreement, and (c) the assignee's Credit Rating is Investment Grade or better, or if the assignee's Credit Rating is not Investment Grade or better, the assignee provides credit from an entity which has a Credit Rating of Investment Grade or better that is in form and substance reasonably acceptable to SELLER; provided, however, that SELLER's consent shall be required for such an assignment if SELLER provides written notice to BUYER, within ten (10) Business Days after SELLER receives the notification described in subsection (a) above, describing a condition or circumstance with respect to the assignee that the SELLER reasonably believes will negatively affect the assignee's ability to satisfy the assignor's obligations under this Agreement.
- 19.5** Except as otherwise provided in this Article 19, any permitted assignment of this Agreement shall relieve the assigning Party of obligations and liabilities under this Agreement that arise after the date of the assignment.

20. SIGNATORS' AUTHORITY/COUNTERPARTS.

The undersigned certify that they are authorized to execute this Agreement on behalf of their respective Party. This Agreement may be executed in two or more counterparts, each of which shall be an original. It shall not be necessary in proving the contents of this Agreement to produce or account for more than one such counterpart.

21. ADEQUATE ASSURANCE OF PERFORMANCE

21.1 If either Party has reasonable grounds to believe that the other Party's ability to perform this Agreement has become unsatisfactory, the Party with such belief (the "Requesting Party") shall have the right to demand by written notice adequate assurance of performance ("Performance Assurance") from the other Party (the "Impaired Party"). The amount of Performance Assurance so demanded shall be determined in a commercially reasonable manner. In the event the Impaired Party fails to provide such Performance Assurance within three (3) Business Days of receipt of notice, then such a failure to provide Performance Assurance shall be deemed to be a breach of this Agreement by the Impaired Party under Section 10.1.2(f) of this Agreement, and the Requesting Party will be entitled to the remedies set forth in Article 10 of this Agreement.

21.2 For purposes of this Agreement, "Performance Assurance" shall mean collateral in the form of either cash, letter (s) of credit, or other security reasonably acceptable to the Requesting Party.

22. FORCE MAJEURE.

22.1 "Force Majeure" means an event that (a) is not within the control of the Party relying thereon, and (b) could not have been prevented or avoided by such Party through the exercise of reasonable diligence. Subject to the foregoing, Force Majeure includes, without limitation, floods, earthquakes, weather-related events, wars, civil disturbances or disobedience, strikes, actions or restraints by court order, governmental authority or arbitration award (so long as the Claiming Party (as defined below) has not sought and has opposed, to the extent reasonable, such actions or restraints). Force Majeure specifically excludes SELLER's ability to sell Contract Unforced Capacity or Contract Energy to a market at a price greater than the Contract Price, or BUYER's ability to purchase Contract Unforced Capacity or Contract Energy at a price lower than the Contract Price.

22.2 To the extent either Party is prevented by Force Majeure from performing any of its obligations under this Agreement and such Party

(the "Claiming Party") provides notice and reasonable evidence of the existence of the Force Majeure to the other Party as soon as practicable, then, unless expressly specified otherwise herein, the Claiming Party shall be excused from performance of its obligations hereunder (other than the obligation to make payments then due or becoming due with respect to the performance prior to the occurrence of the Force Majeure). The Claiming Party shall remedy the Force Majeure as reasonably as practicable. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

22.3 Under no circumstances shall SELLER or BUYER claim that a modification or change in NYISO-adopted rules or procedures, including a modification or change to the NYISO OATT or NYISO Services Tariff, constitutes a Force Majeure, frustration of purpose, impossibility of performance, or otherwise constitutes an excuse for failure to perform under this Agreement.

23. CONFLICTS.

The Parties acknowledge and agree that this Agreement is an "Ancillary Agreement" as defined in the APA, and that this Agreement shall be subject to all terms and conditions applicable to Ancillary Agreements under the APA.

24. FORWARD CONTRACT.

The Parties acknowledge and agree that the transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

25. SURVIVAL.

Notwithstanding any provisions herein to the contrary, the obligations set forth in Articles 12, 13, 14, 15 and 28 and Sections 10.6, 10.7 and 10.8 shall survive (in full force) the expiration or termination of this Agreement.

26. SEVERABILITY.

If any of the terms of this Agreement are finally held or determined to be invalid, legal or void by a regulatory agency or court decision, then all other terms of this Agreement shall remain in effect; provided that the Parties shall enter into good faith negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law or regulation and the intent of the Parties.

27. COOPERATION.

The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, facilities or methods of either Party will materially benefit a Party without detriment to the other Party, the Parties commit to each other to make reasonable efforts to cooperate and assist each other in making such change.

28. DISPUTE RESOLUTION.

28.1 All claims, disputes, and other matters concerning the interpretation and enforcement of this Agreement, shall be submitted to binding arbitration in New York, New York and shall be heard by three neutral arbitrators under the Commercial Arbitration Rules of the American Arbitration Association.

28.2 Only the Parties hereto and their designated representatives shall be permitted to participate in any arbitration initiated pursuant to this Agreement. The arbitration process shall be concluded not later than six (6) months after the date that it is initiated. The award of the arbitrators shall be accompanied by a reasoned opinion if requested by either Party. The award rendered in such a proceeding shall be final. The Parties shall keep the award, and any opinion issued by the arbitrators, confidential unless the Parties agree otherwise. Any award of amounts due shall include interest accrued at the Interest Rate until the date paid. Judgment may be entered upon the arbitration opinion and award in any court having jurisdiction.

28.3 The procedures for the resolution of disputes set forth herein shall be the sole and exclusive procedures for the resolution of disputes. Each Party is required to continue to perform its obligations under this Agreement pending final resolution of a dispute. All negotiations pursuant to these procedures for the resolution of disputes will be confidential, and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and State Rules of Evidence and similarly applicable rules or regulations of any state or federal regulatory agency with jurisdiction over a Party.

29. FURTHER ASSURANCES.

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or

delay its compliance with any reasonable request made pursuant to this Article 29.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement by the undersigned duly authorized representatives as of the date first stated above.

CONSTELLATION POWER SOURCE, INC.

ROCHESTER GAS AND ELECTRIC CORPORATION

By: 
Thomas V. Brooks
President

By: _____
Joseph J. Syta
Controller and Treasurer

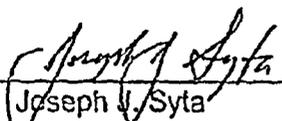
LEGAL REVIEW

INTDFH DATE 11-24-03

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement by the undersigned duly authorized representatives as of the date first stated above.

CONSTELLATION POWER SOURCE, INC. ROCHESTER GAS AND ELECTRIC CORPORATION

By: _____
Thomas V. Brooks
President

By:  _____
Joseph J. Syta
Controller and Treasurer
11/24/03

SCHEDULE A

Capacity Prices and Energy Prices

Contract Year	Capacity Price (Winter Capability Period) (\$ per kW/month)	Capacity Price (Summer Capability Period) (\$ per kW/month)	Energy Price (\$ per MWh)
Interim Period	\$1.50	\$2.20	\$41.65
1	\$1.50	\$2.20	\$41.65
2	\$1.50	\$2.20	\$41.65
3	\$1.50	\$2.20	\$41.65
4	\$1.50	\$2.20	\$41.65
5	\$1.50	\$2.20	\$41.65
6	\$1.50	\$2.20	\$41.65
7	\$1.50	\$2.20	\$41.65
8	\$1.50	\$2.20	\$41.65
9	\$1.50	\$2.20	\$41.65
10	\$1.50	\$2.20	\$41.65

SCHEDULE B

Capability Period Percentages

Contract Year	Winter Capability Period and Summer Capability Period
1	90
2	90
3	90
4	90
5	90
6	90
7	90
8	90
9	90
10	90

SCHEDULE C

Monthly Energy Price Factors

Month	On-Peak	Off-Peak
January	1.32	0.89
February	1.32	0.89
March	1.20	0.76
April	1.20	0.76
May	1.08	0.79
June	1.18	0.81
July	1.46	0.95
August	1.46	0.95
September	1.07	0.76
October	1.06	0.73
November	1.06	0.73
December	1.06	0.73

Exhibit 9

Exhibit 9

FORM OF MASTER DEMAND NOTE

Dated:

Effective:

Each of the undersigned (each a "Party", collectively the "Parties") anticipate entering into one or more loans with each other from time to time as either a borrower or a lender. Any such loans between any of the Parties will be governed by this Master Demand Note, and the grid attached hereto and made a part hereof (the "Grid"). At any time that a Party desires to lend money to, or borrow money from, another Party the Chief Financial Officer of Constellation Energy Group, Inc. and her staff is authorized to endorse on the Grid the date of each loan, the principal amount thereof, the interest rate and the identity of the Party that is the borrower and the Party that is the lender. All notations on the Grid shall be binding on the Parties, absent manifest error.

For value received, each Party that is a borrower promises to pay to the order of each Party that is a lender the principal borrowed as evidenced on the Grid in accordance with the terms hereof, together with accrued interest on any and all principal amounts remaining unpaid hereunder from the date of such loan until payment in full, at a rate per annum noted on the Grid until such principal amount shall have become due and payable; and at the rate of 2% over the grid rate on any overdue principal and (to the extent permitted by applicable law) on any overdue interest, from the date on which payment is due until the obligation of the borrower with respect to the payment thereof shall be discharged. Interest hereunder shall be calculated on the basis of a three hundred sixty-five (365) day year counting the actual number of days elapsed.

The borrower promises to pay the lender the outstanding principal amount of this Note together with all accrued but unpaid interest in one installment within 24 hours of lender's demand. All of the principal may be prepaid by borrower at any time, together with all accrued interest thereon to the date of payment, without penalty with five (5) days prior written notice.

All principal and interest hereunder are payable in lawful money of the United States of America at the address of the lender shown beneath its signature.

No delay or omission on the part of the Lender in exercising any rights hereunder shall operate as a waiver of such right or any other right of such lender, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion.

The borrower for itself and its respective legal representatives, successors and assigns, hereby expressly waives presentment, demand,

protest, notice of protest, presentment for the purpose of accelerating maturity and diligence in collection.

This Note and all transactions hereunder and/or evidenced herein shall be governed by, construed, and enforced in accordance with the laws of the State of Maryland (without giving effect to its choice of law rules) and shall have the effect of a sealed instrument.

IN WITNESS WHEREOF, the each Party has caused this Note to be executed by its duly authorized officer, under seal, as of the date first above written.

CONSTELLATION ENERGY GROUP, INC.

By: _____
Name: Thomas E. Ruszin, Jr.
Title: Treasurer
Address: 750 East Pratt Street
Baltimore, MD 21202
State of Incorporation: Maryland

R.E. GINNA NUCLEAR POWER PLANT, LLC

By: _____
Name:
Title:
Address:
State of Incorporation: Maryland

Exhibit 10

Exhibit 10

FORM OF INTER-COMPANY CREDIT AGREEMENT

This Inter-Company Credit Agreement (the "Agreement"), dated _____, effective as of _____, by and between Constellation Energy Group, Inc. (Parent) and its affiliate, R.E. Ginna Nuclear Power Plant, LLC (Ginna LLC).

RECITALS

- A. Nuclear Regulatory Commission ("NRC") regulations require the licensee of Ginna LLC nuclear power reactors (collectively, the "Facilities") to provide financial assurance of its ability to protect public health and safety.
- B. Ginna LLC participates in a cash pool Parent operates for the benefit of all of its subsidiaries. The cash pool is intended to provide Ginna LLC with the cash necessary to meet its day-to-day cash needs, including its obligation to protect public health and safety. However, if the cash pool, at any time, cannot meet those needs, then Parent has agreed to provide credit to Ginna LLC to allow it to meet its obligation to protect public health and safety.

The parties, for adequate consideration and intending to be legally bound, hereby agree as follows:

ARTICLE I

THE ADVANCES

Section 1.01. Advances. During the period from the date of this Agreement to and including the Maturity Date (as defined in Section 1.03), Parent agrees, on the terms and conditions set forth herein, from time-to-time, to extend credit to Ginna LLC; provided, however, that the aggregate principal amount of all advances outstanding at any time shall not exceed \$60 million. During the term of this Agreement, Ginna LLC, at its option and without penalty or premium, may from time to time repay all or any part of the principal amount outstanding as provided in Section 1.06, and may reborrow any amount that has been repaid. Each advance of funds under this Agreement shall be in a minimum amount of \$5 million and, if greater, shall be in an integral multiple of \$1 million.

Section 1.02. Request for an Advance. Each request for an advance of funds under this Agreement shall be made not later than noon on the second business day prior to the proposed drawdown by notice from Ginna LLC to Parent (pursuant to procedures that may be changed from time to time by mutual agreement) specifying the amount of the advance and a certification that such advance is for the purpose specified in Section 1.07.

Section 1.03. The Note. At the time of the first advance, Ginna LLC will execute a note in substantially the form attached hereto as Exhibit B-2.1 (the "Note") and deliver it to Parent. Any advance provided by Parent to Ginna LLC, and any payments of principal and interest by Ginna LLC, shall be noted by Parent on the grid attached to the Note. Such notations shall be conclusive absent manifest error. The Note is payable to the order of Parent at its principal office in Baltimore, Maryland, and matures on the Maturity Date (subject to the terms of Article II hereof). The "Maturity Date" shall mean: (i) the 5th year anniversary date of the date of this Agreement; (ii) such earlier termination date as may occur pursuant to Sections 2.01, or 2.02, or 2.03; (iii) such later date as may be mutually agreed by the parties hereto pursuant to Section 1.09; or (iv) at the date of closing on any transaction in which: (a) the assets (except asset sales in the ordinary course of business) or stock of Ginna LLC are sold to an unrelated third party of Parent, or (b) Ginna LLC is merged or consolidated into an unrelated third party of Parent whether by operation of law or otherwise. If the Maturity Date is not a business day in Baltimore, Maryland, the next succeeding business day shall be deemed to be the Maturity Date.

Section 1.04. Interest. Interest on any principal amount outstanding shall accrue daily at such rate, and shall be payable at such times, as established by Parent at the time of an advance. The interest rate applicable to any advance and the time of payment shall be noted on the grid attached to the Note by Parent. Such notations shall be conclusive absent manifest error.

Section 1.05. Funding and Repayment. Each advance of funds under this Agreement shall be made in U.S. Dollars in immediately available funds on each drawdown date, at such place as Parent and Ginna LLC may agree. All repayments and prepayments by Ginna LLC of principal and interest, and of all other sums due under the Note or this Agreement shall be made without deduction, setoff, abatement, suspension, deferment, defense or counterclaim, on or before the due date of repayment or payment, and shall be made in U.S. dollars in immediately available funds at the principal office of Parent.

Section 1.06. Optional Prepayments. Ginna LLC, at its option, may prepay all or any part of the principal amount outstanding from time to time without penalty or premium, upon at least 2 business days' prior notice (which, if oral, shall be confirmed promptly in writing) to Parent; provided, however, that if the interest rate is LIBOR based, a prepayment penalty may be assessed against Ginna LLC. Any prepayment penalty would be established at the time of an advance. Parent, at its option, may waive such notice requirements as to any prepayment.

Section 1.07. Use of Proceeds. In order to provide financial assurance, any advance may be used by Ginna LLC only to meet its expenses and obligations to safely operate and maintain the Facilities, including payments for nuclear property damage insurance and a retrospective premium pursuant to Title 10, Part 140, Section 21 of the Code of Federal Regulations (10 CFR 140.21).

Section 1.08. Commitment Fee. At the time of any advance, Parent will notify Ginna LLC of any commitment fee and the method and time of payment. Such commitment fee will only be in an amount necessary to offset Parent's operating expenses regarding the advance.

Section 1.09. Extension of Maturity Date. This Agreement and the Maturity Date hereunder may be extended for successive periods of two years each upon the mutual agreement of the parties.

ARTICLE II

TERMINATION

Section 2.01. Termination upon Unenforceability. Parent, at its option, shall have the right to cease making advances under this Agreement, to terminate this Agreement and/or to make the outstanding principal amount and interest thereon and any other sums due under the Note and this Agreement immediately due and payable upon written or oral notice to Ginna LLC, but without the requirement of any further or other notice, demand or presentment of the Note for payment, if this Agreement or the Note shall at any time for any reason cease to be in full force and effect or shall be null and void while the Note is outstanding, or the validity or enforceability of this Agreement or the Note shall be contested by any person, or Ginna LLC shall deny that it has any further liability or obligation under this Agreement or the Note.

Section 2.02. Termination Upon Permanent Cessation of Operations or NRC Approval. Notwithstanding any other provisions in this Agreement or the Note to the contrary, except as provided in Sections 2.01 and 2.03 herein, Parent agrees that it will provide the credit to Ginna LLC for the purposes defined in Section 1.07, and in no event shall this Agreement be terminated, nor shall Parent cease to make advances under this Agreement, until the earlier of: (i) such time that Ginna LLC has permanently ceased operations at the Facilities; or (ii) the NRC has given written approval for the discontinuance or termination of this Agreement; or (iii) upon the date of closing on any transaction in which (a) the assets (except asset sales in the ordinary course of business) or stock of Ginna LLC are sold to an unrelated third party of Parent, or (b) Ginna LLC is merged or consolidated into an unrelated third party of Parent whether by operation of law or otherwise.

Section 2.03. Substitution of Financial Assurance. Parent can terminate this Agreement upon 45 days written notice to Ginna LLC if Parent has procured a substitute loan facility and/or letter of credit for Ginna LLC that meets the financial assurance requirements of the NRC to protect the public health and safety. Such substitute loan facility and/or letter of credit shall remain in effect until the earlier of (i) such time that Ginna LLC has permanently ceased operations at the Facilities; (ii) the NRC has given written approval of the discontinuance or termination of the substitute loan facility and/or letter of credit; or (iii) if Parent has procured another substitute loan facility and/or letter of credit for Ginna LLC that meets the financial assurance requirements of the NRC to protect the public health and safety.

ARTICLE III

MISCELLANEOUS

Section 3.01. Notices. Any communications between the parties hereto, and notice provided herein to be given, may be given by mailing or otherwise by delivering the same to the Treasurer of Parent and the Treasurer of Ginna LLC, at the principal offices of Parent and Ginna LLC, respectively, or to such other officers or addresses as either party may in writing hereafter specify.

Section 3.02. Remedies. No delay or omission to exercise any right, power or remedy accruing to Parent under this Agreement shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such right, power or remedy. Any waiver, permit, consent or approval of any kind or character on the part of Parent of any breach or default under this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to Parent, shall be cumulative and not alternative.

Section 3.03. Miscellaneous. This Agreement may not be amended unless in writing signed by both parties. This Agreement is governed by Maryland law. This Agreement may not be assigned by either party without the prior written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers, as of the date first above written.

CONSTELLATION ENERGY GROUP, INC.

By: _____
Name: Thomas E. Ruszin, Jr.
Title: Treasurer and Assistant Secretary

R.E. Ginna NUCLEAR POWER PLANT, LLC

By: _____
Name: Stephen A. Mormann
Title: Treasurer

ATTACHMENT

FORM OF INTER-COMPANY CREDIT NOTE

[\$ _____] (Available Credit) _____, 2003
Baltimore, Maryland

R.E. GINNA NUCLEAR POWER PLANT, LLC , a Maryland limited liability company (“Ginna LLC”), for value received and in consideration of the execution and delivery by Constellation Energy Group, Inc., a Maryland corporation (“Parent”) of that certain Inter-Company Credit Agreement, effective as of [_____] (the “Agreement”), hereby promises to pay to the order of Parent on the Maturity Date, the principal sum of [\$ _____], or so much thereof as may be outstanding hereunder, together with any accrued but unpaid interest. Prior to maturity, interest shall be due and payable by Ginna LLC periodically as noted by Parent at the time of any advance and as set forth on the grid attached hereto and made a part hereof.

This Note is issued by Ginna LLC pursuant to the Agreement, to which reference is made for certain terms and conditions applicable hereto. Capitalized terms used in this Note shall, unless the context otherwise requires, have the same meanings assigned to them in the Agreement.

Both the principal of this Note and interest hereon are payable in lawful money of the United States of America, which will be immediately available on the day when payment shall become due, at the principal office of Parent. Interest shall be paid on overdue principal hereof and to the extent legally enforceable, on overdue interest, at a rate of [_____ % over] the then current prime lending rate per annum.

The outstanding principal amount of this Note shall be increased or decreased upon any increase or decrease in the outstanding aggregate principal amount as provided under the terms of Sections 1.02 and 1.06 of the Agreement; provided, however, that at no time shall the outstanding principal amount of this Note exceed the Available Credit. Upon any such increase or decrease in the principal amount of this Note, Parent shall cause to be shown upon the grid portion of this Note the date and amount of such increase or decrease, as the case may be. All notations by Parent on the grid shall be conclusive absent manifest error.

Upon payment in full of the principal of and interest on this Note and all other sums due from Ginna LLC to Parent under the terms of this Note and the Agreement at the Maturity Date, this Note shall be canceled and returned to Ginna LLC and shall be of no further operation or effect. The obligation of Ginna LLC to make the payments required to be made on this Note and under the Agreement and to perform and observe the other agreements on its part contained herein and therein shall be absolute

and unconditional and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise.

Upon the occurrence of an event giving rise to a right on the part of Parent to terminate the Agreement as set forth in sections 2.01, 2.02, and 2.03 of the Agreement, the maturity of this Note may be accelerated and the principal of and interest on and any other sums due from Ginna LLC to Parent under the terms of this Note may be declared immediately due and payable as provided for in the Agreement.

This Note is issued with the intent that it shall be governed by, and construed in accordance with, the laws of the State of Maryland.

IN WITNESS WHEREOF, R.E. GINNA NUCLEAR POWER PLANT, LLC has caused this Note to be duly executed in its name, and its corporate seal to be hereunto affixed and attested, by its duly authorized officer as of _____, 2003.

R.E. GINNA NUCLEAR
POWER PLANT, LLC

By: _____

Title: _____

Exhibit 11

EXHIBIT 11

DECOMMISSIONING FUNDING WORKSHEET

Calculation of Estimated Decommissioning Funding Closing Amount

1. Calculation of the NRC minimum value as of June 30, 2004

$$\text{NRC Minimum} = \$88.38 \text{ million} \times (0.65L + 0.13E + 0.22B)$$

Where:

\$88.38 million is the value for 1,520 MWth PWR in 1986 dollars [4]

L = Labor escalation factor to 12/31/02 [1]

E = Energy escalation factor to 12/31/02 [2]

B = LLRW escalation factor for 2002 [3]

#	Item Description	Value 12/31/02
1	Labor Escalation factor	161.300
2	Base Adjustment Factor	1.555
3	January, 1986 Escalation Factor (NUREG-1307)	130.500
4	L = #1 times #2 divided by #3	1.922
5	Electric Power Escalation Factor	139.900
6	Electric Power Escalation Factor for Jan 1986 (NUREG-1307)	114.200
7	Fuel Escalation Factor	76.300
8	Fuel Escalation Factor for January 1986 (NUREG 1307)	82.000
9	P = #5 divided by #6	1.225
10	F = #7 divided by #8	0.930
11	E = 0.58P + 0.42F per NUREG-1307	1.101
12	Value of B from Table 2.1 of NUREG-1307	9.467
13	0.65L + 0.13E + 0.22B	3.475
14	1986 Minimum-millions of dollars	88.376
15	Minimum-Millions of Dollars: #13 times #14	307.107

[1] NUREG 1307 specifies that the source is Bureau of Labor Statistics (BLS), Employment Cost Index, Series ecu13102i (Northeast Region)

[2] NUREG 1307 specifies that the source is a weighted calculation using Bureau of Labor Statistics (BLS) Data, Producer Price Index-Commodities, Series wpu0573 (light fuel oils) and wpu0543 (industrial electric power).

[3] NUREG 1307 provides a value for B in Table 2.1 in the October 2002 revision (Rev. 10) of the NUREG. The value is 9.467 for Barnwell, assuming the application of waste vendor services to reduce burial volumes. No value is provided for Envirocare.

[4] Maximum power level is 1520 MWth.

EXHIBIT 11 (continued)

Since the applicable NRC regulation, 10 CFR 50.75, does not specify a methodology for projecting what the NRC Minimum Value might be in the future, historical data was used to project what the value might be on June 30, 2004. The following table illustrates the change in projection. The minimum values are in millions.

Effective date for NRC Minimum	Number of years since 12/02	NRC Minimum (MM\$)	Growth in NRC Minimum	
12/31/2002	0	\$307.107	N/A	
12/31/2003	1	\$322.585	5.04%	Annual [5]
06/30/2004	1.5	\$330.746	2.53%	6 months [6]

[5] Calculated value at the end of 2002 escalated at 5.04% per year to end of 2003.

[6] Calculated value at the end of 2003 escalated at 2.53% to June 30, 2004.

EXHIBIT 11 (continued)

Decommissioning Funding Worksheet for Ginna Station

The projection below illustrates that the amount transferred at closing on June 30, 2004 will exceed the NRC minimum value in September 2029.

Projected Balance at Transaction Closing				201,630,890
Ginna License Expiration Year				2029
End of Year*	Beginning Balance	Growth	Earnings	Ending Balance
2004	201,630,890	1%	2,016,309	203,647,199
2005	203,647,199	2%	4,072,944	207,720,143
2006	207,720,143	2%	4,154,403	211,874,546
2007	211,874,546	2%	4,237,491	216,112,037
2008	216,112,037	2%	4,322,241	220,434,277
2009	220,434,277	2%	4,408,686	224,842,963
2010	224,842,963	2%	4,496,859	229,339,822
2011	229,339,822	2%	4,586,796	233,926,619
2012	233,926,619	2%	4,678,532	238,605,151
2013	238,605,151	2%	4,772,103	243,377,254
2014	243,377,254	2%	4,867,545	248,244,799
2015	248,244,799	2%	4,964,896	253,209,695
2016	253,209,695	2%	5,064,194	258,273,889
2017	258,273,889	2%	5,165,478	263,439,367
2018	263,439,367	2%	5,268,787	268,708,154
2019	268,708,154	2%	5,374,163	274,082,317
2020	274,082,317	2%	5,481,646	279,563,964
2021	279,563,964	2%	5,591,279	285,155,243
2022	285,155,243	2%	5,703,105	290,858,348
2023	290,858,348	2%	5,817,167	296,675,515
2024	296,675,515	2%	5,933,510	302,609,025
2025	302,609,025	2%	6,052,180	308,661,205
2026	308,661,205	2%	6,173,224	314,834,430
2027	314,834,430	2%	6,296,689	321,131,118
2028	321,131,118	2%	6,422,622	327,553,740
2029	327,553,740	2%	4,694,937	332,248,677
Ending Fund Balance for 2029				332,248,677
NRC Minimum Requirement for Ginna Station				330,746,000
Credited Value of Funds in excess of NRC Requirement				1,502,677
*except 2029, which ends September 18				

Exhibit 12

Original Service Agreement No. ____
under New York Independent System Operator, Inc.
FERC Electric Tariff Original Vol. No. 1

INTERCONNECTION AGREEMENT

BETWEEN

CONSTELLATION GENERATION GROUP, LLC

AND

ROCHESTER GAS AND ELECTRIC CORPORATION

DATED AS OF

NOVEMBER_24, 2003

Issued by: Jeffrey G. Fiske
Manager of Electric Design

Issued: November ____, 2003

Effective: November ____, 2003

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INTERCONNECTION AGREEMENT

THIS INTERCONNECTION AGREEMENT ("Agreement" or "IA") is made and entered into this as of this 24th day of November, 2003, by and between Constellation Generation Group, LLC, a Delaware limited liability company organized and existing under the laws of the State of Delaware ("Interconnection Customer"), and Rochester Gas and Electric Corporation, a corporation organized and existing under the laws of the State of New York ("Transmission Owner"). Interconnection Customer and Transmission Owner each may be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Transmission Owner owns the Transmission System and Transmission Provider operates the Transmission System;

WHEREAS, Interconnection Customer and Transmission Owner have entered into an Asset Purchase Agreement, dated as of November 24, 2003 (the "Asset Purchase Agreement" or "APA"), pursuant to which Transmission Owner has agreed to sell to Interconnection Customer, and Interconnection Customer has agreed to purchase from Transmission Owner, all of the interests of Transmission Owner in certain assets identified therein with respect to an electric energy generation station which is commonly known as the Robert E. Ginna Nuclear Power Plant (the "Generating Facility");

WHEREAS, after the Closing Date, Interconnection Customer will operate the Generating Facility as the holder of the NRC licenses for the Generating Facility and in accordance with the terms of this Agreement;

WHEREAS, Interconnection Customer's ability to deliver and sell Electricity from the Generating Facility is contingent upon the Generating Facility being interconnected to the Transmission System;

WHEREAS, Interconnection Customer desires that the Generating Facility be interconnected with the Transmission System and Transmission Owner has agreed to such interconnection on certain terms and conditions; and

WHEREAS, Interconnection Customer and Transmission Owner have agreed to enter into this Agreement for the purpose of interconnecting the Generating Facility with the Transmission System.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this Agreement, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used.

ARTICLE 1. DEFINITIONS

Adverse System Impact shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of an electric system.

Affected System shall mean an electric system other than the Transmission Owner's Transmission System that may be affected by the proposed interconnection.

Affected System Operator shall mean the entity that operates an Affected System.

Affiliate shall mean, with respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint stock company, trust or other unincorporated organization, directly or indirectly controlling, controlled by, or under common control with, such person or entity. The term "control" shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent or more shall create a rebuttable presumption of control.

Ancillary Services shall mean those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Owner's Transmission System in accordance with Good Utility Practice.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

Applicable Reliability Council shall mean the reliability council applicable to the Transmission System to which the Generating Facility is directly interconnected.

Applicable Reliability Standards shall mean the requirements and guidelines of the NRC, NERC, the Applicable Reliability Council, and the Control Area of the Transmission System to which the Generating Facility is directly interconnected.

Base Case shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies by the Transmission Provider or Interconnection Customer.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Bulletin shall mean Transmission Owner's Bulletin 86-01 "Requirements For Independent Power Producers of Electricity", as amended or superseded. The Bulletin is attached hereto as Appendix J.

Business Day shall mean Monday through Friday, excluding federal holidays.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Closing Date shall mean the date as defined in the Asset Purchase Agreement, on which all of the Transmission Owner's interests with respect to the Generating Facility are transferred from the Transmission Owner to Interconnection Customer pursuant to the Asset Purchase Agreement.

Commercial Operation Date of a unit shall mean the date on which the Generating Facility is turned over for central dispatch by the NYISO or a Control Area operator.

Commission shall mean the Federal Energy Regulatory Commission ("FERC"), or its successor.

Confidential Information shall mean any confidential, proprietary or trade secret information with respect to a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise.

Control Area shall mean an electrical system or systems bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the interconnection. A Control Area must be certified by NERC.

Decommission or Decommissioning shall have the same meaning as in the Asset Purchase Agreement.

Default shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of this Agreement.

Delivery Point(s) shall mean the point(s) at which Electricity is delivered from the Generating Facility to the Transmission System, as indicated on the one-line diagram attached hereto as Appendix A.

Distribution System shall mean the Transmission Owner's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which distribution systems operate differ among areas.

Distribution Upgrades shall mean the additions, modifications, and upgrades to the Transmission Owner's Distribution System at or beyond the Points of Interconnection to facilitate interconnection of the Generating Facility and render the transmission service necessary to effect Interconnection Customer's wholesale sale of electricity in interstate commerce. Distribution Upgrades do not include Interconnection Facilities.

Effective Date shall mean the date on which this Agreement becomes effective upon execution by the Parties subject to acceptance by the Commission, or if filed unexecuted, upon the date specified by the Commission.

Electricity shall mean electric capacity as measured in MW or kW, energy as measured in MWh or kWh, and ancillary services.

Emergency Condition shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; (2) that, in the case of a Transmission Owner, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, Transmission Owner's Transmission System, Transmission Owner's Interconnection Facilities or the electric systems of others; (3) that, in the case of Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security or safety of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities; or (4) any abnormal system condition that requires automatic or immediate manual action to prevent or limit loss of transmission facilities or generation supply that could adversely affect the reliability of the electric system. System restoration and black start shall be considered Emergency Conditions; provided, however, that Interconnection Customer is not obligated by this Agreement to possess black start capability.

Energy System Operating Rules or "ESOR" shall mean the Energy System Operating Rules of Transmission Owner, as amended or superseded. The ESOR are attached hereto as Appendix K.

Environmental Law shall mean Applicable Laws and Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. § 791a et seq.

FERC shall mean the Federal Energy Regulatory Commission, or its successor.

Final Safety Analysis Report or **FSAR** shall mean the report, as updated, that is required to be maintained for the Generating Facility in accordance with the requirements of 10 C.F.R. § 50.71(e).

Force Majeure 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. A Force Majeure event does not include an act of negligence or intentional wrongdoing.

Generating Facility shall mean the Robert E. Ginna Nuclear Power Plant, excluding the Interconnection Customer's Interconnection Facilities.

Generating Facility Capacity shall mean the net capacity of the Generating Facility. For purposes of this Agreement, the net capacity of the Generating Facility shall be deemed to be up to or equal to 590 MW. As of the Effective Date, the actual net capacity of the Generating Facility is 500 MW. If Interconnection Customer elects to increase the actual net capacity of the Generating Facility during the term of this Agreement, then the Interconnection Customer shall not be liable for any modifications to the Transmission Owner's Interconnection Facilities or for any Network Upgrades necessitated by such increase, provided that such increase does not result in a net capacity for the Generating Facility of greater than 590 MW. Should the Interconnection Customer increase the net capacity of the Generating Facility to above 590 MW, then the Interconnection Customer shall be required to comply with the applicable terms of this Agreement, including the obligation to pay for the construction, installation, modification, operation and maintenance of any Transmission Owner's Interconnection Facilities and/or Network Upgrades necessitated by the increase in net capacity above 590 MW.

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

Governmental Authority shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Interconnection Customer, Transmission Owner, or any Affiliate of either of them.

Hazardous Substances shall mean any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances,"

"contaminants," "pollutants," "toxic pollutants" or terms of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

In-Service Date shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Transmission Owner's Interconnection Facilities to obtain Off-Site Power Service, which for purposes of this Agreement shall be the Closing Date under the Asset Purchase Agreement.

Interconnection Customer shall mean the entity identified in the first paragraph of this Agreement that is interconnecting the Generating Facility with the Transmission Owner's Transmission System and that is a Party to this Agreement.

Interconnection Customer's Interconnection Facilities shall mean those facilities and equipment, identified in Appendices A and G of this Agreement, that are located between the Generating Facility and the Points of Interconnection, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Transmission Owner's Transmission System. Interconnection Customer's Interconnection Facilities are only those that are owned, operated or leased by Interconnection Customer, and include the portions of the Joint Use Facilities that are owned by Interconnection Customer, as set forth in Appendix G of this Agreement.

Interconnection Facilities shall mean the Transmission Owner's Interconnection Facilities, the Interconnection Customer's Interconnection Facilities, and the Joint Use Facilities, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Transmission Owner's Transmission System. Interconnection Facilities shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

Interconnection Facilities Study shall mean a study conducted by the Transmission Owner, the Transmission Provider, or a third party consultant for the Interconnection Customer to determine a list of facilities (including Transmission Owner's Interconnection Facilities and Network Upgrades as identified in the Interconnection System Impact Study), the cost of those facilities, and the time required to interconnect any additional capacity of the Generating Facility with the Transmission Owner's Transmission System. The scope of the study is defined in Section 8 of the Standard Large Generator Interconnection Procedures.

Interconnection Facilities Study Agreement shall mean the form of agreement contained in Appendix 4 of the Standard Large Generator Interconnection Procedures for conducting the Interconnection Facilities Study.

Interconnection Feasibility Study shall mean a preliminary evaluation of the system impact and cost of interconnecting the Generating Facility to the Transmission

Owner's Transmission System, the scope of which is described in Section 6 of the Standard Large Generator Interconnection Procedures.

Interconnection Feasibility Study Agreement shall mean the form of agreement contained in Appendix 2 of the Standard Large Generator Interconnection Procedures for conducting the Interconnection Feasibility Study.

Interconnection Request shall mean an Interconnection Customer's request, in the form of Appendix 1 to the Standard Large Generator Interconnection Procedures, in accordance with the Tariff, to interconnect a new generating facility, or, in the case of the Generating Facility, to increase the capacity of, or make a Material Modification to the operating characteristics of the Generating Facility.

Interconnection Service shall mean the service provided by the Transmission Owner associated with interconnecting the Generating Facility to the Transmission Owner's Transmission System and enabling it to receive electric energy and capacity from the Generating Facility at the Points of Interconnection, pursuant to the terms of this Agreement and, if applicable, the Tariff.

Interconnection Study shall mean any of the following studies: the Interconnection Feasibility Study, the Interconnection System Impact Study, and the Interconnection Facilities Study described in the Standard Large Generator Interconnection Procedures.

Interconnection System Impact Study shall mean an engineering study that evaluates the impact of the proposed interconnection on the safety and reliability of Transmission Owner's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if a new generating facility, or an increase in the Generating Facility Capacity, were interconnected without project modifications or system modifications, focusing on the Adverse System Impacts identified in the Interconnection Feasibility Study, or to study potential impacts, including but not limited to those identified in the Scoping Meeting as described in the Standard Large Generator Interconnection Procedures.

Interconnection System Impact Study Agreement shall mean the form of agreement contained in Appendix 3 of the Standard Large Generator Interconnection Procedures for conducting the Interconnection System Impact Study.

IRS shall mean the Internal Revenue Service.

Joint Operating Committee shall be a group made up of representatives from the Interconnection Customer and the Transmission Owner to coordinate operating and technical considerations of Interconnection Service, as more fully described in Article 29.

Joint Tag List means the list of personnel approved from time to time by Transmission Owner in accordance with Good Utility Practice, who meet Transmission Owner's requirements to switch, tag, and ground electrical equipment.

Joint Use Facilities shall mean facilities and equipment which are identified as Joint Use Facilities in Appendix G hereto, as amended from time to time, which are owned by either the Transmission Owner or the Interconnection Customer and which contribute to the operational reliability of the Transmission System and are, therefore, operated jointly by the Transmission Owner and the Interconnection Customer.

Material Modification shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

Metering Equipment shall mean all metering equipment installed or to be installed at the Generating Facility pursuant to this Agreement at the metering points, including, but not limited to, instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal units, communications equipment, phone lines, and fiber optics.

NERC shall mean the North American Electric Reliability Council, or its successor.

Network Customer shall mean a transmission customer that has qualified for Network Resource Interconnection Service pursuant to the terms of the Tariff.

Network Resource shall mean that portion of the Generating Facility that is integrated with the Transmission Owner's Transmission System, designated as a Network Resource pursuant to the terms of the Tariff, and subjected to redispatch directives as ordered by the Transmission Owner in accordance with the Tariff.

Network Resource Interconnection Service (NR Interconnection Service) shall mean an Interconnection Service that allows the Interconnection Customer to integrate its Generating Facility with the Transmission Owner's Transmission System (1) in a manner comparable to that in which the Transmission Owner integrates its generating facilities to serve native load customers; or (2) in an RTO or ISO with market based congestion management, in the same manner as all other Network Resources. . Network Resource Interconnection Service in and of itself does not convey transmission service.

Network Upgrades shall mean the additions, modifications, and upgrades to the Transmission Owner's Transmission System required at or beyond the point at which the Interconnection Customer interconnects to the Transmission Owner's Transmission System to accommodate the interconnection of the Generating Facility to the Transmission Owner's Transmission System.

New York Independent System Operator or "NYISO" shall mean the organization formed as an Independent System Operator for the New York State transmission system in accordance with FERC order(s) in Docket Nos. ER97-1523-000, et al., or its successor.

Notice of Dispute shall mean a written notice of a dispute or claim that arises out of or in connection with this Agreement or its performance.

NRC shall mean the Nuclear Regulatory Commission, or its successor.

NRC Maintenance Rule shall mean the NRC rules and regulations governing the maintenance of the Generating Facility and, as applicable, the Interconnection Facilities, at 10 C.F.R. § 50.65, as amended from time to time, and commitments relating thereto to which Interconnection Customer is subject.

NRC Requirements and Commitments shall mean all the requirements, obligations, duties, and commitments required to be followed and honored by Interconnection Customer pursuant to the Atomic Energy Act of 1954, the regulations of the NRC, the Generating Facility's operating license and nuclear materials licenses, and all other laws, regulations, licenses, and commitments to which Interconnection Customer is or may become subject from time to time, as amended or superseded.

Off-Site Power Service shall mean all services necessary to permit the supply of Electricity (excluding ancillary services) to the Generating Facility in accordance with the terms of this Agreement.

Off-Site Power Supply Points shall mean the points at which Off-site Power Service is supplied to the Interconnection Customer as indicated on the one-line diagram attached hereto as Appendix A.

Optional Interconnection Study shall mean a sensitivity analysis based on assumptions specified by the Interconnection Customer in the Optional Interconnection Study Agreement.

Optional Interconnection Study Agreement shall mean the form of agreement contained in Appendix 5 of the Standard Large Generator Interconnection Procedures for conducting the Optional Interconnection Study.

Point(s) of Interconnection shall mean the point(s), as set forth in Appendix C to this Agreement, where the Interconnection Facilities connect to the Transmission Owner's Transmission System. The Points of Interconnection shall be the Delivery Points and the Off-Site Power Supply Points set forth in Appendix C.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

Scoping Meeting shall mean the meeting between representatives of the Interconnection Customer and Transmission Owner conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to

impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

Site Control shall mean documentation reasonably demonstrating: (1) ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing a generating facility; (2) an option to purchase or acquire a leasehold site for such purpose; or (3) an exclusivity or other business relationship between Interconnection Customer and the entity having the right to sell, lease or grant Interconnection Customer the right to possess or occupy a site for such purpose.

Stand Alone Network Upgrades shall mean Network Upgrades that an Interconnection Customer may construct without affecting day-to-day operations of the Transmission System during their construction. Both the Transmission Owner and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to this Agreement.

Standard Large Generator Interconnection Procedures (LGIP) shall mean the interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility (greater than 20 MW) that are included in the Tariff.

System Operator shall mean any of the following or its successor or equivalent: (a) the Transmission Owner's energy control center staff, or the energy control staff of any Affiliate of Transmission Owner with responsibility for the Transmission Owner's Transmission System, (b) the energy control center staff as provided in the Tariff, which staff are responsible for central dispatch, or (c) the energy control staff of a satellite control area operator.

System Protection Facilities shall mean the equipment, including necessary protection signal communications equipment, required to protect: (1) the Transmission Owner's Transmission System from faults or other electrical disturbances occurring at the Generating Facility; and (2) the Generating Facility from faults or other electrical system disturbances occurring on the Transmission Owner's Transmission System or on other delivery systems or other generating systems to which the Transmission Owner's Transmission System is directly connected.

Tariff shall mean the Transmission Provider's NYISO Open Access Transmission Tariff ("OATT") through which open access transmission service and Interconnection Service are offered or, to the extent applicable, the NYISO Market Administration and Control Area Services Tariff, as each is filed with the Commission, and as each may be amended or supplemented from time to time, or any successor tariff to either of them.

Transmission Owner shall mean the entity specified in the first paragraph of this Agreement, that owns the Transmission System at the Points of Interconnection and is a Party to this Agreement.

Transmission Owner's Interconnection Facilities shall mean those facilities and equipment owned, controlled or operated by the Transmission Owner located from

the Points of Interconnection as identified in Appendix C to this Agreement, including any modifications, additions or upgrades to such facilities and equipment. Transmission Owner's Interconnection Facilities shall include the portions of the Joint Use Facilities that are owned by the Transmission Owner as set forth in Appendix G of this Agreement, but shall exclude Distribution Upgrades, Stand Alone Network Upgrades and Network Upgrades.

Transmission Provider shall mean the NYISO, or its successor.

Transmission System shall mean the facilities owned, controlled or operated by the Transmission Owner that are used to provide transmission service under the Tariff.

Trial Operation shall mean the period during which Interconnection Customer is engaged in on-site test operations and commissioning of the Generating Facility prior to commercial operation.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date. This IA shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. The obligations of the Parties hereunder shall only become effective on the Closing Date, except as otherwise provided under this Agreement. Transmission Owner shall promptly file this IA with FERC upon execution in accordance with Article 3.1.

2.1.1 The execution of the Asset Purchase Agreement shall be a condition precedent to the effectiveness of the obligations of the Parties under this Agreement. Notwithstanding any other provision of this Agreement, in the event the Asset Purchase Agreement is validly terminated pursuant to its terms prior to the Closing Date, this Agreement shall also terminate as of the date of such termination of the Asset Purchase Agreement.

2.2 Term of Agreement. Subject to the provisions of Articles 2.1.1 and 2.3, this IA shall remain in effect for a period of ten (10) years from the Effective Date, and shall be automatically renewed for each successive one-year period thereafter; provided however, that Transmission Owner shall have the right to file a notice of termination with the Commission if the Interconnection Customer permanently ceases to take Off-Site Power Service from any source for the Generating Facility.

2.3 Termination Procedures. This IA may be terminated as follows:

2.3.1 Written Notice. The Interconnection Customer may terminate this IA after giving the Transmission Owner ninety (90) Calendar Days advance written notice; or

2.3.2 Default. Either Party may terminate this IA in accordance with Article 17.

Notwithstanding the foregoing, no termination of this IA shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this IA, which notice has been accepted for filing by FERC.

2.4 Termination Costs. If a Party elects to terminate this Agreement pursuant to Article 2.3 above, that Party shall pay all costs incurred (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) or charges assessed by the other Party, as of the date of the other Party's receipt of such notice of termination, that are the responsibility of the terminating Party under this IA. In the event of termination by either Party, both Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this IA, unless otherwise ordered or approved by FERC:

2.4.1 With respect to any portion of the Transmission Owner's Interconnection Facilities that have not yet been constructed or installed, the Transmission Owner shall to the extent possible and with Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Interconnection Customer elects not to authorize such cancellation, Interconnection Customer shall assume all payment obligations with respect to such materials, equipment, and contracts, and the Transmission Owner shall deliver such material and equipment, and, if necessary, assign such contracts, to Interconnection Customer as soon as practicable, at Interconnection Customer's expense. To the extent that Interconnection Customer has already paid Transmission Owner for any or all such costs of materials or equipment not taken by Interconnection Customer, Transmission Owner shall promptly refund such amounts to Interconnection Customer, less any costs, including penalties incurred by the Transmission Owner to cancel any pending orders of or return such materials, equipment, or contracts.

If Interconnection Customer terminates this IA, , or if Transmission Owner terminates the IA for Interconnection Customer's Default, in accordance with Article 17, Interconnection Customer shall be responsible for all costs incurred in association with that Interconnection Customer's interconnection, including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment, and other expenses including any Network Upgrades for which the Transmission Owner has incurred expenses

and has not been reimbursed by the Interconnection Customer to the extent required under this Agreement.

2.4.2 Transmission Owner may, at its option, retain any portion of such materials, equipment, or facilities that Interconnection Customer chooses not to accept delivery of, in which case Transmission Owner shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

2.4.3 With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this IA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 **Disconnection.** Upon termination of this IA, the Parties will take all appropriate steps to disconnect the Generating Facility from the Transmission System. All costs required to effectuate such disconnection, including the costs of site restoration, shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this IA or such non-terminating Party otherwise is responsible for these costs under this IA.

2.6 **Survival.** This IA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this IA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this IA was in effect; to protect confidential information provided hereunder; and to permit each Party to have access to the lands of the other Party pursuant to this IA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

ARTICLE 3. REGULATORY FILINGS

3.1 **Filing.** The Transmission Owner shall file this IA (and any amendment hereto) with the appropriate Governmental Authority, if required. Any information that is Confidential Information in accordance with Article 22 shall be maintained by the Transmission Owner and identified as confidential under seal stating that Interconnection Customer asserts such information is Confidential Information and has requested such information be kept under seal. If requested by the Transmission Owner, Interconnection Customer shall provide the Transmission Owner, in writing, with the Interconnection Customer's basis for asserting that the information referred to in this Article 3.1 is competitively sensitive information, and the Transmission Owner may disclose such writing to the appropriate Governmental Authority. Interconnection Customer shall be responsible for the costs associated with affording confidential treatment of such information. If the Interconnection Customer has executed this IA, or any

amendment thereto, the Interconnection Customer shall reasonably cooperate with Transmission Owner with respect to such filing and to provide any information reasonably requested by Transmission Owner needed to comply with applicable regulatory requirements. If the Interconnection Customer has executed this Agreement or any amendment thereto, Interconnection Customer shall not protest the filing of this Agreement or any such amendment.

3.1.1 This Agreement is subject to any necessary regulatory acceptance or approval without any material modification or condition. If any Governmental Authority having jurisdiction over this Agreement requires any modification to, or imposes any condition of acceptance or approval of, this Agreement, and such modification or condition could reasonably be expected to create a material adverse effect on the business, assets, operations or conditions (financial or otherwise) of Transmission Owner or the Interconnection Customer, then the Parties shall engage in good-faith negotiations for a period of no more than thirty (30) days following the issuance of that acceptance or approval in order to agree to revisions to this Agreement to satisfy, or otherwise address, such modification or condition. If the Parties fail to agree mutually to such changes, Transmission Owner may make a unilateral filing with such Governmental Authority to satisfy the modification or condition, and Interconnection Customer shall have the right to oppose such filing and participate fully in any proceeding established by such Governmental Authority to address such filing.

ARTICLE 4. SCOPE OF SERVICE

4.1. Interconnection Product Options. Interconnection Customer has selected Network Resource Interconnection Service, as described below:

4.1.1 Network Resource Interconnection Service ("NR Interconnection Service").

The product described in this Section 4.1.1 is the same as the interconnection service provided to the Generating Facility under Transmission Owner's ownership of the Generating Facility. Accordingly, as of the Effective Date, the studies referenced in Section 4.1.1.1. are not required, no Network Upgrades are needed for the Generating Facility to receive NR Interconnection Service, and Interconnection Customer satisfies the requirements for and will be provided NR Interconnection Service.

4.1.1.1 **The Product.** The Transmission Owner must conduct the necessary studies and construct the Network Upgrades needed to integrate the Generating Facility

(a) in a manner comparable to that in which the Transmission Owner integrates its generating facilities to serve native load customers; or (b) in an ISO or RTO with market based congestion management, in the same manner as all other Network Resources. NR Interconnection Service in and of itself does not convey any transmission delivery service.

4.1.1.2

Transmission Delivery Service Implications. NR Interconnection Service allows the Interconnection Customer's Generating Facility to be designated by any Network Customer under the Tariff on the Transmission Owner's Transmission System as a Network Resource, up to the Generating Facility's full output, on the same basis as all other existing Network Resources interconnected to the Transmission Owner's Transmission System, and to be studied as a Network Resource on the assumption that such a designation will occur. Although NR Interconnection Service does not convey a reservation of transmission service, any Network Customer under the Tariff can utilize its network service under the Tariff to obtain delivery of energy from the interconnected Interconnection Customer's Generating Facility in the same manner as it accesses other Network Resources. The Generating Facility receiving NR Interconnection Service may also be used to provide Ancillary Services after technical studies and/or periodic analyses are performed with respect to the Generating Facility's ability to provide any applicable Ancillary Services, provided that such studies and analyses have been or would be required in connection with the provision of such Ancillary Services by any existing Network Resource. However, if the Generating Facility has not been designated as a Network Resource by any load, it cannot be required to provide Ancillary Services except to the extent such requirements extend to all generating facilities that are similarly situated.

NR Interconnection Service does not necessarily provide the Interconnection Customer with the capability to physically deliver the output of the Generating Facility to any particular load on the Transmission Owner's Transmission System without incurring congestion costs. In the event of transmission constraints on the Transmission Owner's Transmission System, the Generating Facility shall be

subject to the applicable congestion management procedures in the Transmission Owner's Transmission System in the same manner as all other Network Resources.

There is no requirement either at the time of study or interconnection, or at any point in the future, that the Generating Facility be designated as a Network Resource by a Network Customer under the Tariff or that the Interconnection Customer identify a specific buyer (or sink). To the extent a Network Customer does designate the Generating Facility as a Network Resource, it must do so pursuant to the Tariff.

Once an Interconnection Customer satisfies the requirements for obtaining NR Interconnection Service, any future transmission service request for delivery from the Generating Facility within the Transmission Owner's Transmission System of any amount of capacity and/or energy, up to the amount initially studied, will not require that any additional studies be performed or that any further upgrades associated with the Generating Facility be undertaken, regardless of whether or not the Generating Facility is ever designated by a Network Customer as a Network Resource and regardless of changes in ownership of the Generating Facility. To the extent the Interconnection Customer enters into an arrangement for long term transmission service for deliveries from the Generating Facility outside the Transmission Owner's Transmission System, such request may require additional studies and upgrades in order for the Transmission Owner to grant such request.

- 4.2 Provision of Service.** Transmission Owner shall provide Interconnection Service for the Generating Facility at the Point of Interconnection. The Point of Interconnection is set forth in Appendix C. Interconnection Customer acknowledges that any generator balancing arrangement it desires to enter shall be governed by the Tariff and not this Agreement.
- 4.3 Performance Standards.** Each Party shall perform all of its obligations under this IA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required to take or is prevented from taking or limited in taking any action by such Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, such Party shall not be deemed to be in Breach of this IA for its compliance therewith. If such Party is the Transmission Owner, then the

Transmission Owner shall amend this IA and submit the amendment to the Commission for approval.

- 4.4 Transmission Service.** The execution of this IA does not constitute a request for, nor the provision of, any transmission delivery service under the Tariff.
- 4.5 Interconnection Customer Provided Services.** The services provided by Interconnection Customer under this IA are set forth in Article 9.6 and Article 13.4.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

Transmission Owner acknowledges that the Generating Facility is already interconnected to the Transmission System and that Transmission Owner has obtained such approvals as may be required from the Transmission Provider for Transmission Owner to enter into this Agreement and provide the service described herein. Accordingly, except as provided therein, the provisions of this Article 5 are not applicable to the interconnection of the Generating Facility as of the Effective Date, and accordingly, no studies, submissions by Interconnection Customer, new Interconnection Facilities or Network Upgrades are required for the interconnection of the Generating Facility under this Agreement. The Parties agree and acknowledge that the provisions of this Article 5 do apply to, among other circumstances, future modifications to the Generating Facility that may require the installation of new Interconnection Facilities, or the modification of existing Interconnection Facilities and/or Network Upgrades.

- 5.1 Options.** Unless otherwise mutually agreed to between the Parties, Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date, which dates shall apply to a prospective installation, construction, or modification of the Transmission Owner's Interconnection Facilities and/or Network Upgrades, including such activity as may be necessitated by an uprate in the generating capability of the Generating Facility. If these dates are acceptable to Transmission Owner, Transmission Owner shall elect to proceed under either the Standard Option or Alternate Option set forth in Articles 5.1.1 and 5.1.2 below. If these dates are not acceptable to Transmission Owner, the Parties shall proceed under Article 5.1.3 below. The Interconnection Facilities, Network Upgrades, and Distribution Upgrades existing as of the Effective Date of this Agreement are set forth in Appendix A.

- 5.1.1 Standard Option.** If the dates designated by Interconnection Customer are acceptable to Transmission Owner, the Transmission Owner shall so notify Interconnection Customer within thirty (30) Calendar Days of submission of those dates to the Transmission Owner, and the Transmission Owner shall design, procure, and construct the Transmission Owner's Interconnection Facilities and

Network Upgrades, using Reasonable Efforts to complete the Transmission Owner's Interconnection Facilities and Network Upgrades by the dates set forth in Appendix B, Milestones. The Transmission Owner shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Transmission Owner reasonably expects that it will not be able to complete the Transmission Owner's Interconnection Facilities and Network Upgrades by the specified dates, the Transmission Owner shall promptly provide written notice to the Interconnection Customer and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

- 5.1.2 Alternate Option.** If the dates designated by Interconnection Customer are acceptable to Transmission Owner, the Transmission Owner shall so notify Interconnection Customer within thirty (30) Calendar Days of submission of those dates to the Transmission Owner, and Transmission Owner shall assume responsibility for the design, procurement and construction of the Transmission Owner's Interconnection Facilities by the designated dates.

If Transmission Owner subsequently fails to complete Transmission Owner's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; Transmission Owner shall pay Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages; provided, however, the dates designated by Interconnection Customer shall be extended day for day for each day that the Transmission Owner refuses to grant clearances to install equipment.

- 5.1.3 Option to Build.** If the dates designated by Interconnection Customer are not acceptable to Transmission Owner, the Transmission Owner shall so notify the Interconnection Customer within thirty (30) Calendar Days, and unless the Parties agree otherwise, Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades. Both Transmission Owner and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in

Appendix A to this IA. Except for Stand Alone Upgrades, Interconnection Customer shall have no right to construct Network Upgrades under this option.

5.1.4 Negotiated Option. If the Interconnection Customer elects not to exercise its option under Article 5.1.3, Option to Build, Interconnection Customer shall so notify Transmission Owner within thirty (30) Calendar Days, and the Parties shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades by Interconnection Customer) pursuant to which Transmission Owner is responsible for the design, procurement and construction of the Transmission Owner's Interconnection Facilities and Network Upgrades. If the Parties are unable to reach agreement on such terms and conditions, Transmission Owner shall assume responsibility for the design, procurement and construction of the Transmission Owner's Interconnection Facilities and Network Upgrades pursuant to Article 5.1.1, Standard Option.

5.2 General Conditions Applicable to Option to Build. If Interconnection Customer assumes responsibility for the design, procurement and construction of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades,

- (1) the Interconnection Customer shall engineer, procure equipment, and construct the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Transmission Owner;
- (2) Interconnection Customer's engineering, procurement and construction of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law to which Transmission Owner would be subject in the engineering, procurement or construction of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades;
- (3) Transmission Owner shall review and approve the engineering design, equipment acceptance tests, and the construction of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades;
- (4) prior to commencement of construction, Interconnection Customer shall provide to Transmission Owner a schedule for construction of the Transmission Owner's Interconnection Facilities and Stand Alone

Network Upgrades, and shall promptly respond to requests for information from Transmission Owner;

- (5) at any time during construction, Transmission Owner shall have the right to gain unrestricted access to the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;
- (6) at any time during construction, should any phase of the engineering, equipment procurement, or construction of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by Transmission Owner, the Interconnection Customer shall be obligated to remedy deficiencies in that portion of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades;
- (7) the Interconnection Customer shall indemnify the Transmission Owner for claims arising from the Interconnection Customer's construction of Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;
- (8) the Interconnection Customer shall transfer ownership and control of Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades to the Transmission Owner; and
- (9) Transmission Owner shall approve and accept for operation and maintenance the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2.

5.3. Liquidated Damages. The actual damages to the Interconnection Customer, in the event the Transmission Owner's Interconnection Facilities or Network Upgrades are not completed by the dates designated by the Interconnection Customer and accepted by the Transmission Owner pursuant to subparagraph 5.1.2 or 5.1.4 above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Transmission Owner to the Interconnection Customer in the event that Transmission Owner does not complete any portion of the Transmission Owner's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to $\frac{1}{2}$ of 1 percent per day of the actual cost of the Transmission Owner's Interconnection Facilities and Network Upgrades, in the aggregate, for which Transmission Owner has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of the Transmission Owner's Interconnection Facilities and Network Upgrades for which the Transmission Owner has assumed responsibility to design, procure, and construct. The foregoing payments will be made by the Transmission Owner to the Interconnection Customer as just compensation for the damages caused to the Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this IA.

No liquidated damages shall be paid to Interconnection Customer if: (1) Interconnection Customer is not ready to commence use of the Transmission Owner's Interconnection Facilities or Network Upgrades to take the delivery of power for the Generating Facility's Trial Operation or to export power from the Generating Facility on the specified dates, unless the Interconnection Customer would have been able to commence use of the Transmission Owner's Interconnection Facilities or Network Upgrades to take the delivery of power for Generating Facility's Trial Operation or to export power from the Generating Facility, but for Transmission Owner's delay; (2) the Transmission Owner's failure to meet the specified dates is the result of the action or inaction of the Interconnection Customer or any other interconnection customer who has entered into an IA with the Transmission Owner or any cause beyond Transmission Owner's reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

5.4 [RESERVED] .

5.5 **Equipment Procurement.** If responsibility for construction of the Transmission Owner's Interconnection Facilities or Network Upgrades is to be borne by the Transmission Owner, then the Transmission Owner shall commence design of the Transmission Owner's Interconnection Facilities or Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

5.5.1 the Transmission Owner has completed the Facilities Study pursuant to the Facilities Study Agreement;

5.5.2 the Transmission Owner has received written authorization to proceed with design and procurement from the Interconnection Customer by the date specified in Appendix B, Milestones; and

- 5.5.3 the Interconnection Customer has provided security to the Transmission Owner in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.
- 5.6 **Construction Commencement.** The Transmission Owner shall commence construction of the Transmission Owner's Interconnection Facilities and Network Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:
- 5.6.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;
- 5.6.2 Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Transmission Owner's Interconnection Facilities and Network Upgrades;
- 5.6.3 The Transmission Owner has received written authorization to proceed with construction from the Interconnection Customer by the date specified in Appendix B, Milestones; and
- 5.6.4 The Interconnection Customer has provided security to the Transmission Owner in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.
- 5.7 **Work Progress.** The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Either Party may, at any time, request a progress report from the other Party. If, at any time, the Interconnection Customer determines that the completion of the Transmission Owner's Interconnection Facilities will not be required until after the specified In-Service Date, the Interconnection Customer will provide written notice to the Transmission Owner of such later date upon which the completion of the Transmission Owner's Interconnection Facilities will be required.
- 5.8 **Information Exchange.** As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Parties' Interconnection Facilities and compatibility of the Interconnection Facilities with the Transmission Owner's Transmission System, and shall work diligently and in good faith to make any necessary design changes.
- 5.9 **Limited Operation.** If any of the Transmission Owner's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Generating Facility, Transmission Owner shall, upon the request and at the expense of Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Generating Facility and the Interconnection

Customer's Interconnection Facilities may operate prior to the completion of the Transmission Owner's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this IA. Transmission Owner shall permit Interconnection Customer to operate the Generating Facility and the Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.

5.10 Interconnection Customer's Interconnection Facilities ("ICIF").

Interconnection Customer shall, at its expense, design, operate, maintain, procure, construct, own and install the ICIF, as set forth in Appendix A.

5.10.1 Generating Facility Specifications. Interconnection Customer shall submit initial specifications for the ICIF, including System Protection Facilities, to Transmission Owner at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date.

Transmission Owner shall review such specifications to ensure that the ICIF are compatible with the technical specifications, operational control, and safety requirements of the Transmission Owner and comment on such specifications within thirty (30) Calendar Days of Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

5.10.2 Transmission Owner's Review. Transmission Owner's review of Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Generating Facility, or the ICIF. Interconnection Customer shall make such changes to the ICIF as may reasonably be required by Transmission Owner, in accordance with Good Utility Practice, to ensure that the ICIF are compatible with the telemetry, communications, and safety requirements of the Transmission Owner.

5.10.3 ICIF Construction. The ICIF shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Transmission Owner "as-built" drawings, information and documents for the ICIF, such as: a one-line diagram, a site plan showing the Generating Facility and the ICIF, plan and elevation drawings showing the layout of the ICIF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Generating Facility to the step-up transformers and

the ICIF, and the impedances (determined by factory tests) for the associated step-up transformers and the Generating Facility. The Interconnection Customer shall provide Transmission Owner specifications for the excitation system, automatic voltage regulator, Generating Facility control and protection settings, transformer tap settings, and communications.

- 5.11 Transmission Owner's Interconnection Facilities Construction.** The Transmission Owner's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, the Transmission Owner shall deliver to the Interconnection Customer appropriate "as-built" drawings, information and documents for the Transmission Owner's Interconnection Facilities..

The Interconnection Customer will transfer to Transmission Owner ownership and control of the Transmission Owner's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities.

- 5.12 Access Rights.** In addition to the rights, and obligations set forth in the Reciprocal Easement Agreement, upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party"), except as set forth in Article 5.12.1, any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Generating Facility with the Transmission System; (ii) operate and maintain the Generating Facility, the Interconnection Facilities and the Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this IA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

- 5.12.1** Any legal and administrative costs Granting Party incurs in complying with Article 5.12 for the benefit of the Access Party shall be reimbursed by Access Party. Transmission Owner shall notify Interconnection Customer before any entry onto Interconnection Customer's property and while on such property shall comply with all reasonable instructions of the Interconnection Customer, including instructions to remove personnel or property from the Station Exclusion Area, as defined in the Final Safety Analysis Report. In

the event of any conflict between the Reciprocal Easement Agreement and this Agreement, this Agreement shall control.

- 5.13 Lands of Other Property Owners.** If any part of the Transmission Owner's Interconnection Facilities and/or Network Upgrades is, or will be, installed on property owned by persons other than Interconnection Customer or Transmission Owner, the Transmission Owner shall at Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons 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's Interconnection Facilities and/or Network Upgrades upon such property. Upon receipt of a reasonable siting request, Transmission Owner shall provide siting assistance to the Interconnection Customer comparable to that provided to the Transmission Owner's own, or an Affiliate's generation.
- 5.14 Permits.** The Transmission Owner and the Interconnection Customer shall be responsible for their respective costs and expenses to obtain all permits, licenses and authorizations that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations, except if such costs and expenses are incurred due to a Default of this IA by the other Party. The Transmission Owner and the Interconnection Customer shall cooperate with each other in good faith in obtaining any such permits, licenses and authorizations. With respect to this paragraph, Transmission Owner shall provide permitting assistance to the Interconnection Customer comparable to that provided to the Transmission Owner's own, or an Affiliate's generation.
- 5.15 Early Construction of Base Case Facilities.** Interconnection Customer may request Transmission Owner to construct, and Transmission Owner shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Transmission System which are included in the Base Case of the Facilities Study for the Interconnection Customer, and which also are required to be constructed for another interconnection customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.
- 5.16 Suspension.** Interconnection Customer reserves the right, upon written notice to Transmission Owner, to suspend at any time all work by Transmission Owner associated with the construction and installation of Transmission Owner's Interconnection Facilities and/or Network Upgrades required under this IA with the condition that the Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and the Transmission Owner's safety and reliability criteria. In such event,

Interconnection Customer shall be responsible for all reasonable and necessary costs which Transmission Owner (i) has incurred pursuant to this IA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Transmission Owner cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Transmission Owner shall obtain Interconnection Customer's authorization to do so.

Transmission Owner shall invoice Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work by Transmission Owner required under this IA pursuant to this Article 5.16, and has not requested Transmission Owner to recommence the work required under this IA on or before the expiration of three (3) years following commencement of such suspension, Transmission Owner shall have no further obligation to complete such work and any further work shall be treated as a new Interconnection Request; provided, however, that no such suspension shall effect the continued interconnection of the Generating Facility as configured prior to the new Interconnection Request or the validity of the existing IA.

5.17 Taxes.

5.17.1 Interconnection Customer Payments Not Taxable. The Parties intend that all payments or property transfers made by Interconnection Customer to Transmission Owner for the installation of the Transmission Owner's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

5.17.2 Representations And Covenants. In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Generating Facility will pass to another party prior to the transmission of the electricity on the Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Transmission Owner for the Transmission Owner's Interconnection Facilities will be capitalized by Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Transmission Owner's Interconnection

Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At Transmission Owner's request, Interconnection Customer shall provide Transmission Owner with a report from an independent engineer confirming its representation in clause (iii), above. Transmission Owner represents and covenants that the cost of the Transmission Owner's Interconnection Facilities paid for by Interconnection Customer will have no net effect on the base upon which rates are determined.

5.17.3 Indemnification for Taxes Imposed Upon Transmission Owner. Notwithstanding Article 5.17.1, Interconnection Customer shall protect, indemnify and hold harmless Transmission Owner from income taxes imposed against Transmission Owner as the result of payments or property transfers made by Interconnection Customer to Transmission Owner under this IA, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Transmission Owner.

Transmission Owner shall not include a gross-up for income taxes in the amounts it charges Interconnection Customer under this IA unless (i) Transmission Owner has determined, in good faith, that the payments or property transfers made by Interconnection Customer to Transmission Owner should be reported as income subject to taxation or (ii) any Governmental Authority directs Transmission Owner to report payments or property as income subject to taxation; provided, however, that Transmission Owner may require Interconnection Customer to provide security, in a form reasonably acceptable to Transmission Owner (such as a parental guarantee or a letter of credit), in an amount equal to Interconnection Customer's estimated tax liability under this Article 5.17. Interconnection Customer shall reimburse Transmission Owner for such taxes on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from Transmission Owner of the amount due, including detail about how the amount was calculated.

In the event that the Transmission Owner includes a gross-up upon its own determination that the payments or property transfers should be reported as income subject to taxation, the Interconnection

Customer may require the Transmission Owner to provide security, in a form reasonably acceptable to the Interconnection Customer (such as a parental guarantee or a letter of credit) in an amount equal to the Interconnection Customer's estimated tax liability under this Article 5.17.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the 10-year testing period, as contemplated by IRS Notice 88-129, and the applicable statute of limitation, as it may be extended by the Transmission Owner upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

π **5.17.4 Tax Gross-Up Amount.** Interconnection Customer's liability for taxes under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Interconnection Customer will pay Transmission Owner, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on Transmission Owner ("Current Taxes") on the excess of (a) the gross income realized by Transmission Owner as a result of payments or property transfers made by Interconnection Customer to Transmission Owner under this IA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Transmission Owner to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Transmission Owner's composite federal and state tax rates at the time the payments or property transfers are received and Transmission Owner will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Transmission Owner's anticipated tax depreciation deductions as a result of such payments or property transfers by Transmission Owner's current weighted average cost of capital. Thus, the formula for calculating Interconnection Customer's liability to Transmission Owner pursuant to this Article 5.17.4 can be expressed as follows: $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate})$. Interconnection Customer's estimated tax liability in the event taxes

are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

- 5.17.5 Private Letter Ruling or Change or Clarification of Law.** At Interconnection Customer's request and expense, Transmission Owner shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Interconnection Customer to Transmission Owner under this IA are subject to federal income taxation. Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Interconnection Customer's knowledge. Transmission Owner and Interconnection Customer shall cooperate in good faith with respect to the submission of such request.

Transmission Owner shall keep Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. Transmission Owner shall allow Interconnection Customer to attend all meetings with IRS officials about the request and shall permit Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request. If the private letter ruling concludes that such transfers or sums are not subject to federal income taxation, or a clarification of or change in law results in Transmission Owner determining in good faith that such transfers or sums are not subject to federal income taxation, Parties' obligations regarding a gross-up or security under this Article 5.17 shall be reduced accordingly.

- 5.17.6 Subsequent Taxable Events.** If, within 10 years from the date on which the relevant Transmission Owner's Interconnection Facilities are placed in service, (i) Interconnection Customer Breaches the covenant contained in Article 5.17.2(i), (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this IA terminates and Transmission Owner retains ownership of the Interconnection Facilities and Network Upgrades, the Interconnection Customer shall pay a tax gross-up for the taxes imposed on Transmission Owner, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.
- 5.17.7 Contests.** In the event any Governmental Authority determines that Transmission Owner's receipt of payments or property constitutes income that is subject to taxation, Transmission Owner shall notify Interconnection Customer, in writing, within thirty (30) Calendar Days

of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Interconnection Customer and at Interconnection Customer's sole expense, Transmission Owner shall appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Interconnection Customer's written request and sole expense, Transmission Owner shall file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. Transmission Owner reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but Transmission Owner shall keep Interconnection Customer informed, shall consider in good faith suggestions from Interconnection Customer about the conduct of the contest, and shall reasonably permit Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

Interconnection Customer shall pay to Transmission Owner on a periodic basis, as invoiced by Transmission Owner, Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. Transmission Owner will not be required to appeal or seek further review beyond one level of judicial review. At any time during the contest, Transmission Owner may agree to a settlement either with Interconnection Customer's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Transmission Owner, but reasonably acceptable to Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding sentence. Any settlement without Interconnection Customer's consent or such written advice will relieve Interconnection Customer from any obligation to indemnify Transmission Owner for the tax at issue in the contest.

- 5.17.8 Refund.** In the event that (a) a private letter ruling is issued to Transmission Owner which holds that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Owner under the terms of this IA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Transmission Owner in good faith that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Owner under the terms of

this IA is not taxable to Transmission Owner, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Interconnection Customer to Transmission Owner are not subject to federal income tax, or (d) if Transmission Owner receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Interconnection Customer to Transmission Owner pursuant to this IA, Transmission Owner shall promptly refund to Interconnection Customer the following:

- (i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon;
- (ii) on any amounts paid by Interconnection Customer to Transmission Owner for such taxes which Transmission Owner did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(ii) from the date payment was made by Interconnection Customer to the date Transmission Owner refunds such payment to Interconnection Customer; and
- (iii) with respect to any such taxes paid by Transmission Owner, any refund or credit Transmission Owner receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Transmission Owner for such overpayment of taxes (including any reduction in interest otherwise payable by Transmission Owner to any Governmental Authority resulting from an offset or credit); provided, however, that Transmission Owner will remit such amount promptly to Interconnection Customer only after and to the extent that Transmission Owner has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Transmission Owner's Interconnection Facilities.

The intent of this provision is to leave both Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

π **5.17.9 Taxes Other Than Income Taxes.** Upon the timely request by Interconnection Customer, and at Interconnection Customer's sole expense, Transmission Owner shall appeal, protest, seek abatement

of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Transmission Owner for which Interconnection Customer may be required to reimburse Transmission Owner under the terms of this IA. Interconnection Customer and Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Interconnection Customer to Transmission Owner for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Transmission Owner.

5.18 Tax Status. Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this IA is intended to adversely affect any Transmission Owner's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

5.19 Modification.

5.19.1 General. Either Party may undertake modifications to its facilities. If a Party plans to undertake a modification that reasonably may be expected to affect the other Party's facilities, that Party shall provide to the other Party sufficient information regarding such modification so that the other Party may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be Confidential Information in accordance with Article 22 and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

In the case of Generating Facility modifications that do not require Interconnection Customer to submit an Interconnection Request, Transmission Owner shall provide, within thirty (30) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the Transmission System, Transmission Owner's Interconnection Facilities or Network Upgrades necessitated by such Interconnection Customer modification and a good faith estimate of the costs thereof.

5.19.2 Standards. Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this IA, the Bulletin, and Good Utility Practice; provided, however, that in the event of a conflict between the rules and requirements of the NYISO and the requirements of the Bulletin, the rules and requirements of the NYISO shall govern. Transmission Owner will perform any modifications to the Interconnection Facilities or the Transmission System in a manner that supports Interconnection Customer's compliance with NRC Requirements and Commitments, including General Design Criterion 17 and the Station Blackout rule. Transmission Owner will not undertake any modifications to the Interconnection Facilities or the Transmission System if such modification would result in noncompliance with NRC Requirements or Commitments, or would invalidate analyses upon which such compliance is based. Transmission Owner will notify Interconnection Customer in advance of any modification to the Transmission System or Interconnection Facilities as described in the Final Safety Analysis Report, and agrees to coordinate the planning, scheduling and performance of such modifications with Interconnection Customer. If Interconnection Customer notifies the Transmission Owner that a proposed modification affects a system, structure or component described in the Final Safety Analysis Report, Transmission Owner will provide such information as is necessary for Interconnection Customer to evaluate the modification and obtain NRC approval if required, and Transmission Owner will not proceed with such modification until it receives Interconnection Customer's consent, which shall not be unreasonably withheld. Interconnection Customer shall be responsible for all costs incurred by Transmission Owner in ensuring that modifications to the Interconnection Facilities and/or the Transmission System comply with this Section 5.19.2.

5.19.3 Modification Costs. Interconnection Customer shall not be directly assigned for the costs of any additions, modifications, or replacements that Transmission Owner makes to the Transmission Owner's Interconnection Facilities or the Transmission System to facilitate the interconnection of a third party to the Transmission Owner's Interconnection Facilities or the Transmission System, or to provide transmission service under the Tariff. Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Customer's Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Customer's Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

ARTICLE 6. TESTING AND INSPECTION

- 6.1 Pre-Commercial Operation Date Testing and Modifications.** Prior to the Commercial Operation Date, the Transmission Owner shall test the Transmission Owner's Interconnection Facilities and Network Upgrades and the Interconnection Customer shall test the Generating Facility and the Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. Interconnection Customer shall bear the cost of all such testing and modifications. Interconnection Customer shall generate test energy at the Generating Facility only if it has arranged for the delivery of such test energy. Transmission Owner acknowledges that the Generating Facility is already interconnected to the Transmission System and that the provisions of this Section 6.1 do not apply to the Generating Facility as of the Effective Date.
- 6.2 Post-Commercial Operation Date Testing and Modifications.** Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Generating Facility with the Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.
- 6.3 Right to Observe Testing.** Each Party shall notify the other Party in advance of its performance of tests of its Interconnection Facilities. The other Party has the right, at its own expense, to observe such testing.
- 6.4 Right to Inspect.** Each Party shall have the right, but shall have no obligation to: (i) observe the other Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be Confidential Information.

ARTICLE 7. METERING

- 7.1 General.** Each Party shall comply with the Applicable Reliability Council requirements. Unless otherwise agreed by the Parties, Transmission Owner shall install Metering Equipment in accordance with Appendix C of this IA, and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Generating Facility shall be measured at or, at Transmission Owner's option, compensated to, the Point of Interconnection. Transmission Owner shall provide metering quantities, in analog and/or digital form, to Interconnection Customer upon request. Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.
- 7.2 Check Meters.** Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check Transmission Owner's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this IA, except as provided in Article 7.4 below. The check meters shall be subject at all reasonable times to inspection and examination by Transmission Owner or its designee. The installation, operation and maintenance thereof shall be performed entirely by Interconnection Customer in accordance with Good Utility Practice.
- 7.3 Standards.** Transmission Owner shall install, calibrate, and test revenue quality Metering Equipment in accordance with applicable ANSI standards.
- 7.4 Testing of Metering Equipment.** Transmission Owner shall inspect and test all Transmission Owner-owned Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by Interconnection Customer, Transmission Owner shall, at Interconnection Customer's expense, inspect or test Metering Equipment more frequently than every two (2) years. Transmission Owner shall give reasonable notice of the time when any inspection or test shall take place, and Interconnection Customer may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Interconnection Customer's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to Transmission Owner's failure to maintain, then Transmission Owner shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, Transmission Owner shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Interconnection Customer's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment.

- 7.5 **Metering Data.** At Interconnection Customer's expense, the metered data shall be telemetered to one or more locations designated by Transmission Owner and one or more locations designated by Interconnection Customer. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Generating Facility to the Point of Interconnection.

ARTICLE 8. COMMUNICATIONS

- 8.1 **Interconnection Customer Obligations.** Interconnection Customer shall maintain satisfactory operating communications with Transmission Owner's Transmission System dispatcher or representative designated by Transmission Owner. Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to Transmission Owner as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Generating Facility to the location(s) specified by Transmission Owner. Any required maintenance of such communications equipment shall be performed by Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data. Transmission Owner represents that the communications facilities existing at the Generating Facility as of the Closing Date meet the requirements of this Section 8.1.
- 8.2 **Remote Terminal Unit.** Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to both Parties, shall be installed by Interconnection Customer, or by Transmission Owner at Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Owner through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by Transmission Owner. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by Transmission Owner. Transmission Owner represents that the Remote Terminal Unit existing at the Generating Facility as of the Effective Date meets the requirements of this Section 8.2.

Each Party will promptly advise the other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

- 8.3 **No Annexation.** Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties in writing.

ARTICLE 9. OPERATIONS

- 9.1 **General.** Each Party shall comply with the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.
- 9.2 **Control Area Notification.** Interconnection Customer hereby notifies Transmission Owner that the Generating Facility will be located in the NYISO Control Area. If the Interconnection Customer elects to locate the Generating Facility in a Control Area other than the Control Area in which the Generating Facility is physically located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this IA, and remote Control Area generator interchange agreements; if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Generating Facility in the other Control Area.
- 9.3 **Transmission Owner Obligations.** Transmission Owner shall cause the Transmission System and the Transmission Owner's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with Good Utility Practice and this IA. Transmission Owner may provide operating instructions to Interconnection Customer consistent with this IA and Transmission Owner's operating protocols and procedures as they may change from time to time. Transmission Owner will consider changes to its operating protocols and procedures proposed by Interconnection Customer.
- 9.4 **Interconnection Customer Obligations.** Interconnection Customer shall at its own expense operate, maintain and control the Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with Good Utility Practice and this IA. Interconnection Customer shall operate the Generating Facility and the Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Control Area of which it is part, as such requirements are set forth in Appendix C, Interconnection Details, of this IA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. Either Party may request that the other Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this IA.
- 9.5 **Start-Up and Synchronization.** Consistent with the Parties' mutually acceptable procedures, the Interconnection Customer is responsible for the

proper synchronization of the Generating Facility to the Transmission Owner's Transmission System.

9.6 Reactive Power.

9.6.1 Generating Facilities Participating in Voltage Control as an Ancillary Service Under the Tariff. Unless otherwise agreed to by the Parties, Interconnection Customer shall operate the Generating Facility with automatic voltage regulation equipment in service at all times. Transmission Owner acknowledges that the voltage regulation equipment in service on the Effective Date meets the voltage regulation requirements of this Agreement. The voltage regulation equipment will control voltage at the Point of Interconnection to the nominal system voltage, as determined by the System Operator. From time to time, and in accordance with the Tariff, Transmission Owner or the System Operator may require Interconnection Customer, at no charge to Transmission Owner, to raise or lower the voltage at the Point of Interconnection, which may result in providing reactive power to the Transmission System or absorbing reactive power from the Transmission System. Interconnection Customer shall be compensated for such reactive power pursuant to the applicable provisions of the Tariff.

9.6.2 Generators not Participating in Voltage Control as an Ancillary Service Under the NYISO Tariff. Interconnection Customer shall operate the Generating Facility to provide or receive VARs as necessary to maintain the voltage schedule directed by the Transmission Owner, the NYISO, or the System Operator at the Points of Interconnection, and at no charge to Transmission Owner. Interconnection Customer shall be required to maintain at least the capability of providing or receiving VARs of plus or minus 100 MVARs at full load as measured at the Generator Facility terminals.

9.6.3 Voltage Limits. Interconnection Customer shall notify the System Operator, to the extent required by the System Operator, if the Generating Facility reaches the limit of its VAR capabilities, if there is any deviation from the assigned voltage schedule, or if any automatic voltage regulator is removed from or restored to service. The Transmission Owner shall maintain switchyard 13-A voltage limits within the values required by the station design basis for Off-Site Power Supply as described in the Final Safety Analysis Report.

9.6.4 Restoration. In addition to voltage regulation, Interconnection Customer shall adhere to the System Operator's service restoration plan, as amended, which plan shall be provided to Interconnection Customer by Transmission Owner upon Interconnection Customer's

request. The Transmission Owner shall have written procedures for prompt restoration of Off-Site Power to the Generating Facility.

9.7 Outages and Interruptions.

9.7.1 Outages.

9.7.1.1 Outage Authority and Coordination. Each Party may, in accordance with Good Utility Practice and in coordination with the other Party, remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to both Parties. In all circumstances any Party planning to remove such facility(ies) from service shall provide seven (7) Calendar Days notice of any scheduled outage and use Reasonable Efforts to minimize the effect on the other Party of such removal.

9.7.1.2 Outage Schedules. In accordance with the Tariff, the Transmission Provider will post scheduled outages of its transmission facilities on the OASIS. Interconnection Customer shall submit its planned maintenance schedules for the Generating Facility to Transmission Owner for a minimum of a rolling twenty-four (24) month period. Interconnection Customer shall update its planned maintenance schedules as necessary. Transmission Owner or Transmission Provider may request Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the Transmission System. In accordance with the Tariff, Transmission Provider will compensate Interconnection Customer for any additional direct costs that the Interconnection Customer incurs as a result of having to reschedule maintenance, including any additional overtime, breaking of maintenance contracts or other costs above and beyond the cost the Interconnection Customer would have incurred absent the Transmission Provider's request to reschedule maintenance.

9.7.1.3 Outage Restoration. If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects the other Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Party, to the extent such information is known, information on the nature of the condition causing the outage, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage. In the event of an unscheduled outage, Transmission Owner will take all necessary and reasonable actions, in accordance with applicable emergency plans and black start restoration procedures, to cause Off-Site Power to be restored for the Generating Facility promptly and as a matter of priority over non-nuclear stations.

9.7.2 Interruption of Service. If required by Good Utility Practice to do so, Transmission Owner may require Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect Transmission Owner's ability to perform such activities as are necessary to safely and reliably operate and maintain the Transmission System. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

9.7.2.1 The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

9.7.2.2 Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all Generating Facilities directly connected to the Transmission System;

9.7.2.3 When the interruption or reduction must be made under circumstances which do not allow for advance notice, Transmission Owner shall notify Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone

notification shall be followed by written notification as soon as practicable;

9.7.2.4 Except during the existence of an Emergency Condition, when the interruption or reduction can be scheduled without advance notice, Transmission Owner shall notify Interconnection Customer in advance regarding the timing of such scheduling and further notify Interconnection Customer of the expected duration. Transmission Owner shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Interconnection Customer and the Transmission Owner;

9.7.2.5 The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Generating Facility, Interconnection Facilities, and the Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

9.7.3 Under-Frequency and Over Frequency Conditions. The Transmission System is designed to automatically activate a load-shed program as required by the Applicable Reliability Council in the event of an under-frequency system disturbance. Interconnection Customer shall implement under-frequency and over-frequency relay set points for the Generating Facility as required by the Applicable Reliability Council to ensure "ride through" capability of the Transmission System. Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the Transmission Owner in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the Transmission System during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice.

9.7.4 System Protection and Other Control Requirements.

9.7.4.1 System Protection Facilities. Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Generating Facility or the Interconnection Customer's Interconnection Facilities. Transmission Owner shall, at its expense, install, operate and maintain any System

Protection Facilities that may be required on the Transmission Owner's Interconnection Facilities or the Transmission System as a result of the interconnection of the Generating Facility and the Interconnection Customer's Interconnection Facilities. Transmission Owner represents that the System Protection Facilities installed at the Generating Facility as of the Effective Date meet the system protection requirements of this Agreement.

- 9.7.4.2 Each Party's protection facilities shall be designed and coordinated with other systems in accordance with Good Utility Practice.
 - 9.7.4.3 Each Party shall be responsible for protection of its facilities consistent with Good Utility Practice.
 - 9.7.4.4 Each Party's protective relay design shall incorporate the necessary test switches or sliding terminal decks to perform the tests required in Article 6. The required test switches or sliding terminal decks will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Interconnection Customer's units.
 - 9.7.4.5 Each Party will test, operate and maintain its respective System Protection Facilities in accordance with Good Utility Practice.
 - 9.7.4.6 At intervals consistent with Good Utility Practice and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.
- 9.7.5 **Requirements for Protection.** In compliance with Good Utility Practice, Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Generating Facility to any short circuit occurring on the Transmission System not otherwise isolated by Transmission Owner's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Transmission System. Such protective

equipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the Generating Facility and the Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. Interconnection Customer shall be responsible for protection of the Generating Facility and Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. Interconnection Customer shall be solely responsible to disconnect the Generating Facility and Interconnection Customer's other equipment if conditions on the Transmission System could adversely affect the Generating Facility. Transmission Owner acknowledges that the protective devices installed at the Generating Facility as of the Effective Date meet the requirements of this Section.

9.7.6 Power Quality. Neither Party's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry or NRC standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI Standard C84.1-1989, or the applicable superseding electric industry or NRC standard, shall control.

9.8 ESOR Compliance. Interconnection Customer shall comply with the ESOR. Transmission Owner shall have the right to modify the ESOR unilaterally, consistent with Good Utility Practice, and in a non-discriminatory fashion. Transmission Owner will notify Interconnection Customer of any changes to the ESOR.

9.8.1 Except with respect to Transmission Owner's equipment and facilities on Interconnection Customer's side of the Point of Interconnection, Interconnection Customer shall be responsible for all switching, tagging and mark-ups on Interconnection Customer's side of the Point of Interconnection, as such point is set forth in Appendix C to this Agreement. Transmission Owner shall maintain and be responsible for all switching, tagging, and mark-ups at the Point of Interconnection and on Transmission Owner's side of the Point of Interconnection. Transmission Owner shall also perform all switching, tagging and mark-ups with respect to Transmission Owner's equipment and facilities located on Interconnection Customer's side of the Point of Interconnection.

9.8.2 Interconnection Customer, in accordance with the ESOR, shall be responsible, at its own expense, for training and testing its operators for inclusion on a Joint Tag List.

9.9 **Use of Interconnection Facilities by Third Parties.** If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Transmission Owner's Interconnection Facilities, or any part thereof, or if Transmission Owner uses the Transmission Owner's Interconnection Facilities, or any part thereof (other than those Transmission Owner Interconnection Facilities existing as of the Effective Date), for purposes other than providing Interconnection Service for the Generating Facility, Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by Transmission Owner, all third party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or, if Interconnection Customer agrees, upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between Interconnection Customer and any third party users based upon the pro rata use of the Interconnection Facilities by Transmission Owner, all third party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or, if Interconnection Customer agrees, upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

9.10 **Disturbance Analysis Data Exchange.** The Parties will cooperate with one another in the analysis of disturbances to either the Generating Facility or the Transmission Owner's Transmission System by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

ARTICLE 10. MAINTENANCE

10.1 **Transmission Owner Obligations.** Transmission Owner shall maintain the Transmission System and the Transmission Owner's Interconnection Facilities in a safe and reliable manner and in accordance with Good Utility Practice and this IA. Transmission Owner shall maintain these facilities in a manner that supports Interconnection Customer's compliance with the NRC Maintenance Rule or NRC Requirements and Commitments and will take no action that would result in non-compliance with the NRC Maintenance Rule or NRC Requirements and Commitments. Interconnection Customer shall be responsible for the incremental costs incurred by Transmission Owner in

ensuring that the maintenance of these facilities complies with the immediately preceding sentence beyond those costs that otherwise are customary and reasonable for a non-nuclear facility.

- 10.2 Interconnection Customer Obligations.** Interconnection Customer shall maintain the Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with Good Utility Practice and this IA.
- 10.3 Coordination.** The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Generating Facility and the Interconnection Facilities.
- 10.4 Secondary Systems.** Each Party shall cooperate with the other in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Party. Each Party shall provide advance notice to the other Party before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.
- 10.5 Operating and Maintenance Expenses.** Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, Interconnection Customer shall be responsible for all reasonable expenses including overheads, associated with owning, installing, operating, maintaining, repairing, and replacing Interconnection Customer's Interconnection Facilities, and Transmission Owner shall be responsible for all reasonable expenses, including overheads, associated with owning, operating, maintaining, repairing and replacing Transmission Owner Interconnection Facilities, Distribution Upgrades and Network Upgrades existing as of the Closing Date, which facilities are sufficient to permit the Generating Facility to operate, at Interconnection Customer's election, at a net capacity of up to 590 MW. The allocation of cost responsibility between Interconnection Customer and Transmission Owner for owning, installing, operating, maintaining, repairing and replacing Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades that may be required after the Closing Date to permit the Generating Facility to operate above 590 MW shall be governed by the cost allocation rules set forth in the applicable Commission-jurisdictional tariff or Commission policy in place as of the date that the Transmission Owner Interconnection Facilities,

Distribution Upgrades and/or Network Upgrade are determined to be needed by the applicable Governmental Authority, including the NYISO.

10.6 NRC Maintenance Rule and NRC Requirements and Commitments.

10.6.1 Interconnection Customer's Obligations and Authority.

10.6.1.1 In furtherance of Interconnection Customer's obligation to comply with the NRC Maintenance Rule and NRC Requirements and Commitments, Transmission Owner agrees that Interconnection Customer has the authority, control and obligation to: (a) review and modify, as appropriate, Transmission Owner's identification of any structures, systems, and components covered under the NRC Maintenance Rule and NRC Requirements and Commitments, regardless of ownership, and require Transmission Owner to modify, as appropriate, the scope of such structures, systems, and components so as to meet NRC requirements; (b) in cooperation with Transmission Owner and in accordance with NRC guidance, to establish and approve availability and reliability performance criteria and improvement goals for all such structures, systems, and components, regardless of ownership, to permit Interconnection Customer to comply with the NRC Maintenance Rule and NRC Requirements and Commitments; and (c) in cooperation with Transmission Owner and in accordance with NRC guidance, to approve all improvements, maintenance, inspections, monitoring, operational procedures, or any other activity affecting such structures, systems, and components, regardless of ownership, to permit Interconnection Customer to comply with the NRC Maintenance Rule and NRC Requirements and Commitments.

10.6.1.2 Transmission Owner agrees that it will cooperate with Interconnection Customer to facilitate Interconnection Customer's compliance with the NRC Maintenance Rule and NRC Requirements and Commitments as applicable to the structures, systems, and components of the Transmission Owner's Interconnection Facilities or the Transmission System. Interconnection Customer shall reimburse Transmission Owner for the incremental costs to Transmission Owner to facilitate Interconnection Customer's compliance with the NRC Maintenance Rule and NRC Requirements and

Commitments beyond those costs that otherwise are customary and reasonable for a non-nuclear facility.

10.6.1.3 Any incremental costs or expenses Transmission Owner incurs as a result of a Interconnection Customer request to Transmission Owner for additional or different action other than those required under Article 10.6.1.2 above, arising from such compliance by Interconnection Customer with any amendment or modification to, or any change in interpretation of, the NRC Maintenance Rule and NRC Requirements and Commitments after the Closing Date, shall be borne by Interconnection Customer.

10.6.1.4 Transmission Owner, at Interconnection Customer's expense, shall perform any aging management programs or related actions for the Interconnection Facilities as may be required to comply with NRC Requirements and Commitments in connection with the NRC's renewal of the NRC operating license for the Generating Facility.

10.6.2 **Schedule of Components.** Appendix I to this Agreement sets forth the substation components that, as of the Closing Date, are necessary to fulfill those functions covered by the NRC Maintenance Rule, together with the schedule, to be provided as of the Closing Date, for maintenance, inspection and testing of such components. All other substation components will be maintained, inspected and tested in accordance with Transmission Owner's standard procedures for substation maintenance, inspection and testing. In the event the Parties agree that a component not identified in Appendix I should have been included in Appendix I, the Parties may, by their mutual agreement, add substation components to Appendix I. In order to comply with the NRC Maintenance Rule, Interconnection Customer may add new substation components to Appendix I as appendices to Appendix I, and also may change schedules for maintenance, inspection and testing of such components, subject to Interconnection Customer's payment of additional costs or expenses in accordance with Article 10.6.1.3.

10.6.3 **Notice.** To the extent Transmission Owner become aware of any failure of any substation component identified in Appendix I, Transmission Owner shall provide immediate notice thereof to Interconnection Customer.

10.6.4 **Analysis.** As required by the NRC Maintenance Rule, Interconnection Customer shall, at its discretion and with

Transmission Owner's reasonable cooperation, conduct risk assessments as required when maintenance is performed on equipment within the scope of the NRC Maintenance Rule and conduct an analysis of a failure of any substation component identified in Appendix I, and any personnel error leading to the failure of any such component. Transmission Owner will cooperate with Interconnection Customer and promptly, upon Interconnection Customer's request, provide Interconnection Customer with all information under Transmission Owner' control and, consistent with Good Utility Practice, necessary for Interconnection Customer to: (a) perform such risk assessment as required; (b) determine whether the failure was a functional failure of equipment or the result of personnel error; (c) determine whether the failure, if a functional failure, was maintenance preventable; and (d) conduct root cause analyses of those failures as Interconnection Customer deems appropriate. At the request of Interconnection Customer, and at Interconnection Customer's expense, Transmission Owner shall assist in the performance of a root cause analysis for any substation component, and the investigation of any personnel error which may have led to the failure of any such component, as Interconnection Customer deems necessary.

- 10.6.5 Testing.** As necessary, in accordance with Good Utility Practice, or at Interconnection Customer's request, Transmission Owner will arrange for independent testing of any failed component identified in Appendix I, subject to Interconnection Customer's payment of additional costs or expenses in accordance with Article 10.6.1.3.
- 10.6.6 Performance Improvement Plan.** Interconnection Customer shall analyze data supplied by Transmission Owner concerning a failure of a substation component identified in Appendix I, and investigate any personnel error which may have led to the failure of any such component, and shall notify Transmission Owner if a performance improvement plan is required in accordance with the NRC Maintenance Rule. Interconnection Customer and Transmission Owner will cooperate to develop and implement any such performance plan, the cost of which shall be borne by Interconnection Customer.
- 10.6.7 Records.** For the term of this Agreement, Transmission Owner shall provide Interconnection Customer with complete and accurate records concerning all preventative and corrective maintenance activities performed by Transmission Owner on all Transmission Owner substation components identified in Appendix I.
- 10.6.8 Inspections.** During this Agreement, the Transmission Owner shall provide Interconnection Customer with the access, in accordance

with the Reciprocal Easement Agreement to the extent applicable, necessary to inspect all Transmission Owner facilities and records within the scope of the NRC Maintenance Rule and NRC Requirements and Commitments, in order to satisfy any NRC request.

10.7 Decommissioning.

10.7.1 Interconnection Customer, at its own expense, will Decommission the Generating Facility in accordance with NRC Requirements and Commitments and the Asset Purchase Agreement.

10.7.2 In furtherance of the Parties' mutual objective to preserve and maintain the reliability of the Transmission Owner's Interconnection Facilities and the Transmission System, Interconnection Customer and Transmission Owner agree to coordinate the planning and scheduling of Decommissioning in a manner so as to maintain the reliability of, and to minimize the effect on, the Transmission Owner's Interconnection Facilities and the Transmission System.

ARTICLE 11. PERFORMANCE OBLIGATION

11.1 Interconnection Customer's Interconnection Facilities. Interconnection Customer shall own and/or control the Interconnection Customer's Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at its sole expense.

11.2 Transmission Owner's Interconnection Facilities. Transmission Owner shall own and control the Transmission Owner's Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at its sole expense.

11.3 Network Upgrades and Distribution Upgrades. As of the Closing Date, there are no Distribution Upgrades or Network Upgrades associated with the Generating Facility or the Transmission System. Consistent with Section 10.5, the allocation of cost responsibilities for installing Transmission Owner Interconnection Facilities, Distribution Upgrades and Network Upgrades to permit the Generating Facility to operate above a net capacity of 590 MW shall be governed by the applicable Commission cost allocation rules described in Section 10.5.

11.4 Transmission Credits for Network Upgrades to Affected Systems.

11.4.1 The provisions of this Article 11.4 shall not apply to the extent that cost allocation regarding Network Upgrades on an Affected System is governed by a FERC-approved tariff or rate schedule of the Affected System Operator. Under no circumstances shall the Transmission Owner be liable for the costs of any Network Upgrades

on an Affected System or for any delay in the construction, installation or operation of such Network Upgrades.

11.4.2 Refund of Amounts Advanced for Network Upgrades.

Interconnection Customer shall be entitled to a cash refund, equal to the total amount paid to Affected System Operator for the Network Upgrades to the Affected System, including any tax gross-up or other tax-related payments, and not refunded to Interconnection Customer pursuant to Article 5.17.8 or otherwise, to be paid to Interconnection Customer on a dollar-for-dollar basis for the non-usage sensitive portion of transmission charges, as payments are made under the Affected System's Tariff for transmission services with respect to the Generating Facility.

Notwithstanding the foregoing, Interconnection Customer and Affected System Operator may adopt any alternative payment schedule that is mutually agreeable so long as Affected System Operator refunds all amounts paid by Interconnection Customer for the Network Upgrades to the Affected System, together with interest, within five (5) years from the Commercial Operation Date. System Operator shall provide refunds to Interconnection Customer only after commercial operation of the Generating Facility has been demonstrated.

If the Generating Facility fails to achieve commercial operation, but it or another Generating Facility is later constructed and makes use of the Network Upgrades, Affected System Operator shall at that time provide refunds to Interconnection Customer for the amounts advanced for the Network Upgrades. Any refund shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(ii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a refund of such payment pursuant to this subparagraph. Interconnection Customer may assign such refund rights to any person.

11.4.3 Notwithstanding any other provision of this IA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that the Interconnection Customer, shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades to Affected Systems, including the right to obtain refunds or transmission credits for transmission service that is not associated with the Generating Facility.

11.5 Provision of Security. At least thirty (30) Calendar Days prior to the commencement of the procurement, installation, or construction of a discrete portion of a Transmission Owner's Interconnection Facilities, Network Upgrades, or Distribution Upgrades, Interconnection Customer shall provide Transmission Owner, at Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Transmission Owner and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1. Such security for payment shall be in an amount sufficient to cover the costs for constructing, procuring and installing the applicable portion of Transmission Owner's Interconnection Facilities, Network Upgrades, or Distribution Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to Transmission Owner under this IA during its term. The provisions of this Section 11.5 do not apply to the initial interconnection of Generating Facility because all of the Interconnection Facilities are already in place and no System Upgrades or new Interconnection Facilities are required due to the change in ownership of the Generating Facility.

In addition:

11.5.1 The guarantee must be made by an entity that meets the creditworthiness requirements of Transmission Owner, and contain terms and conditions that guarantee payment of any amount that may be due from Interconnection Customer, up to an agreed-to maximum amount.

11.5.2 The letter of credit must be issued by a financial institution reasonably acceptable to Transmission Owner and must specify a reasonable expiration date.

11.5.3 The surety bond must be issued by an insurer reasonably acceptable to Transmission Owner and must specify a reasonable expiration date.

11.6 Interconnection Customer Compensation. If Transmission Owner or Transmission Provider requests or directs Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power), or 13.4.1 of this IA, Transmission Provider will compensate Interconnection Customer in accordance with Interconnection Customer's applicable rate schedule then in effect unless the provision of such service(s) is subject to an RTO or ISO FERC-approved rate schedule. Interconnection Customer shall serve Transmission Provider with any filing of a proposed rate schedule at the time of such filing with FERC. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb any Reactive Power under this IA, the Transmission Provider will compensate the Interconnection Customer in such amount as would have been due the Interconnection Customer had the rate schedule been in effect at the time

service commenced; provided, however, that such rate schedule must be filed at FERC or other appropriate Governmental Authority within sixty (60) Calendar Days of the commencement of service.

11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition. Transmission Provider will compensate Interconnection Customer for its provision of real and reactive power and other Emergency Condition services that Interconnection Customer provides to support the Transmission System during an Emergency Condition in accordance with this Article 11.6.

ARTICLE 12. INVOICE

- 12.1 General.** Each Party shall submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this IA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.
- 12.2 Final Invoice.** Within six months after completion of the construction of the Transmission Owner's Interconnection Facilities and the Network Upgrades, Transmission Owner shall provide an invoice of the final cost of the construction of the Transmission Owner's Interconnection Facilities and the Network Upgrades and shall set forth such costs in sufficient detail to enable Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Transmission Owner shall refund to Interconnection Customer any amount by which the actual payment by Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.
- 12.3 Payment.** Invoices shall be rendered to the paying Party at the address specified in Appendix F. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices by a Party will not constitute a waiver of any rights or claims such Party may have under this IA.
- 12.4 Disputes.** In the event of a billing dispute between Transmission Owner and Interconnection Customer, Transmission Owner shall continue to provide Interconnection Service under this IA as long as Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to Transmission Owner or into an independent escrow account the portion of the invoice in

dispute, pending resolution of such dispute. If Interconnection Customer fails to meet these two requirements for continuation of service, then Transmission Owner may provide notice to Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accord with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(ii).

ARTICLE 13. EMERGENCIES

- 13.1 Obligations.** Each Party shall comply with the Emergency Condition procedures of the applicable ISO/RTO, NERC, the Applicable Reliability Council, Applicable Laws and Regulations, NRC, and any emergency procedures agreed to by the Joint Operating Committee.
- 13.2 Notice.** Transmission Owner shall verbally notify Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects the Transmission Owner's Interconnection Facilities or the Transmission System that may reasonably be expected to affect Interconnection Customer's operation of the Generating Facility or the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall verbally notify Transmission Owner promptly when it becomes aware of an Emergency Condition that affects the Generating Facility or the Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the Transmission System or the Transmission Owner's Interconnection Facilities. To the extent information is known, the verbal notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of Interconnection Customer's or Transmission Owner's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial verbal notice shall be followed as soon as practicable with written notice.
- 13.3 Immediate Action.** Unless, in Interconnection Customer's reasonable judgment, immediate action is required, Interconnection Customer shall obtain the consent of Transmission Owner, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Generating Facility or the Interconnection Customer's Interconnection Facilities in response to an Emergency Condition either declared by the Transmission Owner or otherwise regarding the Transmission System.
- 13.4 Transmission Owner Authority.**
- 13.4.1 General.** Consistent with Good Utility Practice, Transmission Owner or Transmission Provider may take whatever actions or inactions with regard to the Transmission System, the Transmission Owner's Interconnection Facilities, or the Joint Use Facilities it deems necessary during an Emergency Condition in order to (i) preserve

public health and safety, (ii) preserve the reliability of the Transmission System or the Transmission Owner's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.

Transmission Owner or Transmission Provider shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Generating Facility or the Interconnection Customer's Interconnection Facilities. Transmission Owner or Transmission Provider may, on the basis of technical considerations, require the Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing Interconnection Customer to shut-down, start-up, increase or decrease the real or reactive power output of the Generating Facility; implementing a reduction or disconnection pursuant to Article 13.4.2; directing the Interconnection Customer to assist with blackstart (if available) or restoration efforts; or altering the outage schedules of the Generating Facility and the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall comply with all of Transmission Owner's or Transmission Provider's operating instructions concerning Generating Facility real power and reactive power output within the manufacturer's design limitations of the Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

- 13.4.2 Reduction and Disconnection.** Transmission Owner or Transmission Provider may reduce Interconnection Service or disconnect the Generating Facility or the Interconnection Customer's Interconnection Facilities, when such reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of the Transmission Provider pursuant to the Tariff. When the Transmission Owner or Transmission Provider can schedule the reduction or disconnection in advance, Transmission Owner or Transmission Provider shall notify Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. Transmission Owner and Transmission Provider shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Interconnection Customer and the Transmission Owner. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties and Transmission Provider shall cooperate with each other to restore the Generating Facility, the Interconnection Facilities, and the

Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

- 13.5 Interconnection Customer Authority.** Consistent with Good Utility Practice and this IA, the Interconnection Customer may take whatever actions or inactions with regard to the Generating Facility or the Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Generating Facility or the Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Transmission System and the Transmission Owner's Interconnection Facilities. Transmission Owner shall use Reasonable Efforts to assist Interconnection Customer in such actions.
- 13.6 Limited Liability.** Except as otherwise provided in Article 11.6.1 of this IA, neither Party shall be liable to the other for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW

- 14.1 Regulatory Requirements.** Each Party's obligations under this IA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying 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 use its Reasonable Efforts to obtain such other approvals. If an obligation under this IA requires Interconnection Customer to take any action that is imminently likely to jeopardize its status under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, Interconnection Customer and Transmission Provider shall negotiate in good faith an equitable amendment to this Agreement which protects both Parties' interests.
- 14.2 Governing Law.**
- 14.2.1** This Agreement and all rights, obligations, and performances of the Parties hereunder are subject to all applicable federal and state laws, and to all duly-promulgated orders and other duly-authorized action of any Governmental Authority.
- 14.2.2** When not in conflict with or preempted by federal law, this Agreement, and the rights and obligations of the Parties to this Agreement, shall be governed by and construed in accordance with the law of the State of New York, without giving effect to the conflict

of laws of the State of New York, without giving effect to the conflict of laws principles thereof.

- 14.2.3** Except as expressly provided in this Agreement, each Party expressly reserves the right to seek changes in appeal, or otherwise contest any laws, orders, rules, or regulations, of a Governmental Authority relating to this Agreement. Except for those matters that are jurisdictional to FERC or the appellate courts having jurisdiction over FERC matters, any action arising out of or concerning this Agreement must be brought in the federal or state courts of the State of New York. The Parties agree to submit to the exclusive jurisdiction of the courts in the State of New York for the purposes of hearing and determining any action not preempted by federal law and not within the jurisdiction of FERC.

ARTICLE 15. NOTICES

- 15.1 General.** Unless otherwise provided in this IA, any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party in writing to the other shall be effective when delivered and may be so given, tendered or delivered, by facsimile transmission, 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 address set out in Appendix F to this Agreement, Addresses for Delivery of Notices and Billings.

Either Party may change the notice information in this IA by giving five (5) Business Days written notice prior to the effective date of the change.

- 15.2 Billings and Payments.** Billings and payments shall be sent to the addresses set out in Appendix F to this Agreement.
- 15.3 Alternative Forms of Notice.** Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F to this Agreement.
- 15.4 Operations and Maintenance Notice.** Each Party shall notify the other Party in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

ARTICLE 16. FORCE MAJEURE

- 16.1 Force Majeure.**

16.1.1 Economic hardship is not considered a Force Majeure event.

16.1.2 Neither Party shall be considered to be in Breach or Default with respect to any obligation hereunder, (including obligations under Article 4), 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 Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and 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. The Party affected shall use Reasonable Efforts to continue to perform its obligations under this Agreement despite the Force Majeure, exercise due diligence to remove the event or condition giving rise to the Force Majeure with reasonable dispatch, and provide notice to the other Party of the cessation of the Force Majeure, 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.

ARTICLE 17. DEFAULT

17.1 Default.

17.1.1 General. No Breach or Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this IA or the result of an act or omission of the other Party. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the Breaching Party. Except as provided in Article 17.1.2, the Breaching Party shall have thirty (30) Calendar Days from receipt of the Breach notice within which to cure such Breach; provided however, that, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

17.1.2 Right to Terminate. If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, a Default shall have occurred and the non-defaulting Party shall have the right to terminate this IA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this IA, to recover from the defaulting Party all amounts due hereunder,

plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article shall survive termination of this IA.

ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE

18.1 Indemnity. Each Party shall at all times indemnify, defend, and save the other Party harmless from, any and all liabilities, damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the indemnifying Party's performance (or nonperformance) of its obligations under this IA, except to the extent of any negligence or intentional wrongdoing by the indemnified Party (collectively, for the purposes of Article 18.1.2 below, the "Loss.").

18.1.1 Indemnified Party. If an indemnified Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

18.1.2 Indemnifying Party. If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article 18, the amount owing to the indemnified Party shall be the amount of such indemnified Party's actual Loss.

18.1.3 Indemnity Procedures. Promptly, but in no event later than twenty (20) Calendar Days, after receipt by an indemnified Party 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 Article 18.1 may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The indemnifying Party shall have the right to assume the defense thereof with counsel designated by such indemnifying Party and reasonably satisfactory to the indemnified Party. If the defendants in any such action include one or more indemnified parties and the indemnifying Party and if the indemnified Party reasonably concludes that there may be legal defenses available to it and/or another indemnified party which are different from or additional to those available to the indemnifying Party, the indemnified Party 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 shall only be required to pay the fees and expenses of one additional law firm to represent the indemnified Party or indemnified parties having such differing or additional legal defenses.

The indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the indemnifying Party. Notwithstanding the foregoing, the indemnifying Party (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 Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the indemnified Party, or there exists a conflict or adversity of interest between the indemnified Party and the indemnifying Party, in such event the indemnifying Party shall pay the reasonable expenses of the indemnified Party, 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 Party, which consent shall not be reasonably withheld, conditioned or delayed.

18.1.4 Consequential Damages. Other than the Liquidated Damages heretofore described and indemnity obligations arising under Article 5.2(7), Article 5.17.3 (to the extent that tax-related interest and penalties may be deemed to be consequential damages), and the payment for liabilities and costs incurred as a result of third-party claims, in no event shall either Party be liable under any provision of this IA for any liabilities, losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, and strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder. The provisions of this Section 18.1.4 shall survive termination of this IA.

18.2 Insurance. Each Party shall, at its own expense, maintain in force throughout the period of this IA, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in the state where the Points of Interconnection are located:

18.2.1 Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the

state in which the Points of Interconnection are located. The minimum limits for the Employers' Liability insurance shall be One Million Dollars (\$1,000,000) each accident bodily injury by accident, One Million Dollars (\$1,000,000) each employee bodily injury by disease, and One Million Dollars (\$1,000,000) policy limit bodily injury by disease.

- 18.2.2** Commercial General Liability Insurance, including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/Ten Million Dollars (\$10,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- 18.2.3** Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.
- 18.2.4** Excess Public Liability Insurance over and above the Employers' Liability Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.
- 18.2.5** The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Public Liability Insurance policies shall name the other Party, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this IA against the Other Party Group and provide thirty (30) days advance written notice to the Other Party Group prior to cancellation or any material change in coverage or condition.
- 18.2.6** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is

provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.

- 18.2.7** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this IA, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- 18.2.8** The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this IA.
- 18.2.9** Within ten (10) days following execution of this IA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, each Party shall provide certification of all insurance required in this IA, executed by each insurer or by an authorized representative of each insurer.
- 18.2.10** Notwithstanding the foregoing, each Party may self-insure to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade, or better, by Standard & Poor's. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.2.1 through 18.2.9. In the event that a Party is permitted to self-insure pursuant to this Article 18.3.10, it shall not be required to comply with the insurance requirements applicable to it under Articles 18.2.1 through 18.2.9.
- 18.2.11** The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this IA.
- 18.2.12** Interconnection Customer covenants, represents and warrants:
- A. That it has entered into an agreement of indemnification with the NRC as provided under Section 170 of the Atomic Energy Act of 1954, as amended;

- B. That it shall provide and maintain nuclear liability insurance in such amounts and form as required by Section 170 of the Atomic Energy Act of 1954, as amended;
- C. That it shall provide and maintain nuclear property insurance in an amount not less than the coverage required by NRC regulations;
- D. That it shall extend protection against a Nuclear Incident (as "Nuclear Incident" is defined in the Atomic Energy Act of 1954, as amended), as provided for in (B) and (C) above, for the benefit of Transmission Owner and its consultants, contractors, subcontractors, agents, invitees and employees; and
- E. That it shall indemnify, defend and hold harmless, Transmission Owner, its parent, Affiliates, and successors, and their respective officers, directors, employees, agents, contractors, subcontractors, and successors, from and against any and all claims, demands, liabilities, costs, losses, judgments, damages, and expenses (including litigation costs and reasonable attorneys' fees) resulting from any Nuclear Incident (as "Nuclear Incident" is defined in the Atomic Energy Act of 1954, as amended).

In addition, Interconnection Customer covenants, represents and warrants that if the nuclear liability protection system in effect on the effective date of this IA expires or is repealed, changed, or modified, it shall, without cost to Transmission Owner, maintain nuclear liability protection, to the extent that it is reasonably available, for the protection of Transmission Owner, through governmental indemnity, limitation of liability and/or insurance.

ARTICLE 19. ASSIGNMENT

19.1 Assignment. This IA may be assigned by either Party only with the written consent of the other; provided that either Party may assign this IA without the consent of the other Party to any Affiliate of the assigning Party or to an entity that acquires all or substantially all of the assigning Party's assets, which Affiliate or acquiring entity has the legal authority and operational ability to satisfy the obligations of the assigning Party under this IA; and provided further that the Interconnection Customer shall have the right to assign this IA, without the consent of the Transmission Owner, for collateral security purposes to aid in providing financing for the Generating Facility, provided that the Interconnection Customer will require any secured party, trustee or mortgagee to notify the Transmission Owner of any such assignment. Any financing arrangement entered into by the Interconnection Customer pursuant to this Article will provide that prior to or upon the exercise of the secured

party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the Transmission Owner of the date and particulars of any such exercise of assignment right(s). Any attempted assignment that violates this Article is void and ineffective. No assignment under this IA shall relieve a Party (including the assigning Party) of its obligations without the consent of the other Party, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent under this Article 19 to assignment will not be unreasonably withheld, conditioned or delayed.

ARTICLE 20. SEVERABILITY

- 20.1 Severability.** If any provision in this IA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this IA; provided that if the Interconnection Customer (or any third party, but only if such third party is not acting at the direction of the Transmission Owner) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

ARTICLE 21. COMPARABILITY

- 21.1 Comparability.** The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

ARTICLE 22. CONFIDENTIALITY

- 22.1 Confidentiality.** Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this IA.

Unless otherwise set forth in this Agreement, information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential.

If requested by either Party, the other Party shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

- 22.1.1 Term.** During the term of this IA, and for a period of three (3) years after the expiration or termination of this IA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.
- 22.1.2 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this IA; or (6) is required, in accordance with Article 22.1.7 of the IA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this IA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.
- 22.1.3 Release of Confidential Information.** Neither Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, or to parties who may be or considering providing financing to or equity participation with Interconnection Customer, or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with this IA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.
- 22.1.4 Rights.** Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Party of Confidential Information shall not be deemed a waiver by either Party or any other person or entity of the right to protect the Confidential Information from public disclosure.
- 22.1.5 No Warranties.** By providing Confidential Information, neither Party makes any warranties or representations as to its accuracy or

completeness. In addition, by supplying Confidential Information, neither Party obligates itself to provide any particular information or Confidential Information to the other Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

- 22.1.6 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this IA or its regulatory requirements.
- 22.1.7 Order of Disclosure.** If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this IA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be afforded any Confidential Information so furnished.
- 22.1.8 Termination of Agreement.** Upon termination of this IA for any reason, and to the extent consistent with applicable laws and regulations, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.
- 22.1.9 Remedies.** The Parties agree that monetary damages would be inadequate to compensate a Party for the other Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all

other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

22.1.10 Disclosure to FERC or its Staff. Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this IA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Party to this IA prior to the release of the Confidential Information to the Commission or its staff. The Party shall notify the other Party to this IA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time either of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.

22.1.11 Subject to the exception in Article 22.1.10, any information that a Party claims is competitively sensitive, commercial or financial information under this IA ("Confidential Information") shall not be disclosed by the other Party to any person not employed or retained by the other Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this IA or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of the other Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from

public disclosure by confidentiality agreement, protective order or other reasonable measures.

22.1.12 This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a Breach of this provision).

ARTICLE 23. ENVIRONMENTAL RELEASES

23.1 Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four (24) hours after such Party becomes aware of the occurrence or, in the event of planned asbestos or lead abatement activities or remediation activities, at least seven (7) Calendar Days prior to commencement of such activities; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

ARTICLE 24. INFORMATION REQUIREMENTS

- 24.1** **Information Acquisition.** Transmission Owner and the Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.
- 24.2** **Information Submission by Transmission Owner.** The initial information submission by Transmission Owner shall occur no later than thirty (30) Calendar Days after the Effective Date and shall include Transmission System information necessary to allow the Interconnection Customer to meet any system protection and stability requirements, unless otherwise mutually agreed to by both Parties. On a monthly basis Transmission Owner shall provide Interconnection Customer a status report on the construction and installation of Transmission Owner's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.
- 24.3** **Updated Information Submission by Interconnection Customer.** The updated information submission by the Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. Interconnection Customer shall submit a completed copy of the Generating Facility data requirements

contained in Appendix 1 to the LGIP. It shall also include any additional information provided to Transmission Owner for the Feasibility and Facilities Study. Information in this submission shall be the most current Generating Facility design or expected performance data. Information submitted for stability models shall be compatible with Transmission Owner standard models. If there is no compatible model, the Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Interconnection Customer's data is materially different from what was originally provided to Transmission Owner pursuant to the Interconnection Study Agreement between Transmission Owner and Interconnection Customer, then Transmission Owner will conduct appropriate studies to determine the impact on the Transmission Owner Transmission System based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed.

24.4 Information Supplementation. Prior to the Operation Date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Generating Facility information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Generating Facility as required by Good Utility Practice such as an open circuit "step voltage" test on the Generating Facility to verify proper operation of the Generating Facility's automatic voltage regulator.

24.5 Unless otherwise agreed, the test conditions shall include: (1) Generating Facility at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent (5 percent) change in Generating Facility terminal voltage initiated by a change in the voltage regulators reference voltage. Interconnection Customer shall provide validated test recordings showing the responses of Generating Facility terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Generating Facility's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Generating Facility terminal or field voltages is provided. Generating Facility testing shall be conducted and results provided to the Transmission Owner for each individual generating unit in a station.

Subsequent to the Effective Date, the Interconnection Customer shall provide Transmission Owner with any information changes due to equipment replacement, repair, or adjustment and Transmission Owner shall provide the Interconnection Customer with any information changes due to equipment replacement, repair or adjustment in the directly connected substation or with any adjacent Transmission Owner-owned substation that may affect the

Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information no later than thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS

- 25.1 Information Access.** Upon the reasonable request of the other Party, a Party (the "disclosing Party") shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this IA; and (ii) carry out its obligations and responsibilities under this IA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this IA.
- 25.2 Reporting of Non-Force Majeure Events.** Each Party (the "notifying Party") shall notify the other Party when the notifying Party becomes aware of its inability to comply with the provisions of this IA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including 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 Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this IA.
- 25.3 Audit Rights.** Subject to the requirements of confidentiality under Article 22 of this IA, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party's accounts and records pertaining to either Party's performance or either Party's satisfaction of obligations under this IA. Such audit rights shall include audits of the other Party's costs, calculation of invoiced amounts, the Transmission Owner's efforts to allocate responsibility for the provision of reactive support to the Transmission System, the Transmission Owner's efforts to allocate responsibility for interruption or reduction of generation on the Transmission System, and each Party's actions in an Emergency Condition. Any audit authorized by this Article 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 each Party's performance and satisfaction of obligations under this IA. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.
- 25.4 Audit Rights Periods.**

- 25.4.1 Audit Rights Period for Construction-Related Accounts and Records.** Accounts and records related to the design, engineering, procurement, and construction of Transmission Owner's Interconnection Facilities and Network Upgrades shall be subject to audit for a period of twenty-four months following Transmission Owner's issuance of a final invoice in accordance with Article 12.2.
- 25.4.2 Audit Rights Period for All Other Accounts and Records.** Accounts and records related to either Party's performance or satisfaction of all obligations under this IA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four (24) months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four (24) months after the event for which the audit is sought.
- 25.4.3 Audit Parameters.** The Party seeking to audit pursuant to Article 25.4 (the "Auditing Party") shall provide the other Party fifteen (15) days prior written notice of a request to audit. Any data collection for such audit shall be performed continuously until complete and the Auditing Party shall utilize Reasonable Efforts to complete the data collection for such audit within thirty (30) Calendar Days, however, in no event shall any data collection for such audit continue for more than sixty (60) Calendar Days. Each Party reserves the right to assess a reasonable fee to compensate for the use of its personnel in assisting any inspection or audit of its books, records or accounts by the Auditing Party.
- 25.5 Audit Results.** If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

ARTICLE 26. SUBCONTRACTORS

- 26.1 General.** Nothing in this IA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this IA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this IA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.
- 26.2 Responsibility of Principal.** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this IA. The hiring Party shall be fully responsible to the other Party for the acts or

omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Transmission Owner be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under Article 5 of this IA. Any applicable obligation imposed by this IA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

- 26.3 **No Limitation by Insurance.** The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

ARTICLE 27. DISPUTES

- 27.1 **Submission.** In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this IA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this IA.
- 27.2 **External Arbitration Procedures.** Any arbitration initiated under this IA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations or ISO/RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

27.3 Arbitration Decisions. Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this IA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.

27.4 Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS

28.1 General. Each Party makes the following representations, warranties and covenants:

28.1.1 Good Standing. Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Generating Facility, Interconnection Facilities and Network Upgrades owned or operated by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this IA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this IA.

28.1.2 Authority. Such Party has the right, power and authority to enter into this IA, to become a party hereto and to perform its obligations hereunder. This IA 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).

- 28.1.3 No Conflict.** The execution, delivery and performance of this IA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.
- 28.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this IA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this IA, and it will provide to any Governmental Authority notice of any actions under this IA that are required by Applicable Laws and Regulations.

ARTICLE 29. JOINT OPERATING COMMITTEE

- 29.1 Joint Operating Committee.** Transmission Owner shall create a Joint Operating Committee to coordinate operating and technical considerations of Interconnection Service. Within thirty (30) days after the Effective Date, Interconnection Customer and Transmission Owner shall each appoint one representative and one alternate to the Joint Operating Committee. The Interconnection Customer shall notify the Transmission Owner of its appointment in writing. Such appointments may be changed at any time by similar notice. The Joint Operating Committee shall meet as necessary, but not less than once each calendar year, to carry out the duties set forth herein. The Joint Operating Committee shall hold a meeting at the request of either Party, at a time and place agreed upon by the representatives. The Joint Operating Committee shall perform all of its duties consistent with the provisions of this IA. Each Party shall cooperate in providing to the Joint Operating Committee all information required in the performance of the Joint Operating Committee's duties. All decisions and agreements, if any, made by the Joint Operating Committee shall be evidenced in writing. The duties of the Joint Operating Committee shall include the following:
- 29.1.1** Establish data requirements and operating record requirements.
- 29.1.2** Review the requirements, standards, and procedures for data acquisition equipment, protective equipment, and any other equipment or software.
- 29.1.3** Annually review the one (1) year forecast of maintenance and planned outage schedules of Transmission Owner's and Interconnection Customer's facilities at the Point of Interconnection.
- 29.1.4** Coordinate the scheduling of maintenance and planned outages on the Interconnection Facilities, the Generating Facility and other

facilities that impact the normal operation of the interconnection of the Generating Facility to the Transmission System.

29.1.5 Ensure that information is being provided by each Party regarding equipment availability.

29.1.6 Perform such other duties as may be conferred upon it by mutual agreement of the Parties.

ARTICLE 30. MISCELLANEOUS

- 30.1 **Binding Effect.** This IA, and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto.
- 30.2 **Conflicts.** In the event of a conflict between the body of this IA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this IA shall prevail and be deemed the final intent of the Parties.
- 30.3 **Rules of Interpretation.** This IA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this IA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this IA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article or Section of this IA or such Appendix to this IA, or such Section to the LGIP or such Appendix to the LGIP, as the case may be, unless the context requires otherwise; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this IA as a whole and not to any particular Article, Section or other provision hereof or thereof; (7) "including" (and, with correlative meaning, "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".
- 30.4 **Entire Agreement.** Except as may be otherwise expressly provided herein, this IA, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter

hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this IA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this IA.

30.5 No Third-Party Beneficiaries. This IA 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.

30.6 Waiver. The failure of a Party to this IA to insist, on any occasion, upon strict performance of any provision of this IA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this IA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this IA. Termination or Default of this IA for any reason by the Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Transmission Owner. Any waiver of this IA shall, if requested, be provided in writing.

30.7 Headings. The descriptive headings in this IA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this IA.

30.8 Multiple Counterparts. This IA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

30.9 Amendment. The Parties may by mutual agreement amend this IA, and any such amendment shall only be made through, a written instrument duly executed by both of the Parties.

30.10 Modification by the Parties. The Parties may by mutual agreement amend the Appendices to this IA, and any such amendment shall only be made through, a written instrument duly executed by both of the Parties. Such amendment shall become effective and a part of this IA upon satisfaction of all Applicable Laws and Regulations.

30.11 Reservation of Rights. Transmission Owner shall have the right to make a unilateral filing with FERC to modify this IA 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 Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this IA pursuant

to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; 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 IA 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 thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

- 30.12 No Partnership.** This IA 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.
- 30.13 Safety.** Each Party shall be solely responsible for the safety and supervision of its own employees, agents, representatives, and contractors. The Parties shall observe all applicable safety standards, procedures and practices of the Occupational Safety and Health Act of 1970 and of the National Electric Safety Code.
- 30.14 Specific Performance.** Each Party acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each Party agrees that the other Party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action instituted in any court of the United States having jurisdiction over the Parties and the matter in addition to any other remedy to which it may be entitled at law or in equity.
- 30.15 Good Faith Covenant.** The Parties agree that their actions and dealings with each other under this Agreement shall be subject to an express covenant of good faith and fair dealing.

IN WITNESS WHEREOF, the Parties have executed this IA in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

ROCHESTER GAS AND ELECTRIC CORPORATION

By: Joseph J. Syta
Joseph J. Syta
Controller and Treasurer

Date: 11/24/03

CONSTELLATION GENERATION GROUP, LLC

By: _____
Michael J. Wallace
President

Date:

IN WITNESS WHEREOF, the Parties have executed this IA in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

ROCHESTER GAS AND ELECTRIC CORPORATION

By: _____
Joseph J. Syta
Controller and Treasurer

Date:

CONSTELLATION GENERATION GROUP, LLC

By: 

Michael J. Wallace
President

Date: 11/24/03

Appendices to IA

- Appendix A** Interconnection Facilities, Network Upgrades and Distribution Upgrades
- Appendix B** Milestones
- Appendix C** Interconnection Details
- Appendix D** Security Arrangements Details
- Appendix E** Commercial Operation Date
- Appendix F** Addresses for Delivery of Notices and Billings
- Appendix G** Joint Use Facilities
- Appendix H** Operating Parameters
- Appendix I** Substation Components
- Appendix J** Transmission Owner's Bulletin 86-01
- Appendix K** Energy System Operating Rules

**Appendix A
To IA**

Interconnection Facilities, Network Upgrades and Distribution Upgrades

1. Interconnection Facilities:

(a) Interconnection Customer's Interconnection Facilities:

Station 13A Equipment

All equipment in Station 13A will be retained by Transmission Owner, as the Transmission Owner's Interconnection Facilities, except the following to be sold with the generating facility:

1. 115kV Oil Pipe cable to the GSU.
2. Control house for 115kV Oil Pipe cable.
3. Disconnect Switch 6T13A74.
4. 3 – 121kV surge arresters on #6 Transformer.
5. #6 Transformer.
6. 3-30kV surge arresters on #6 Transformer.
7. Disconnect Switches 76704, 76705 and 76706.
8. 767 Voltage Regulator.
9. 34kV Power Cable for circuit 767.
10. Motor-operated disconnect switch 1G13A71.
11. 115kV circuit breaker 1G13A72.
12. Disconnect switch 1G13A73.
13. 3 – 96kV surge arresters between disconnect switches 9X13A71 and 1G13A73.
14. Disconnect switch 9X13A71.
15. 115kV circuit breaker 9X13A72.
16. Motor-operated disconnect switch 9X13A73.
17. Duplex panels 1F, 1R and 2F.
18. Dual Unit 1.
19. Tone equipment cabinet.
20. Pilot wire cabinet.
21. Isolation cabinet.
22. 34kV Power cable for circuit 767.
23. Grounding, conduit, foundations, structures, conductor, junction boxes, cable and miscellaneous equipment associated with the equipment listed above.

Station 204

Line from new metering pole to be installed in circuit 751 at the south property boundary on Lake Road to the Generating Facility.

Joint Use Facilities

Those Joint Use Facilities in Appendix G designated as owned by the Interconnection Customer.

(b) Transmission Owner's Interconnection Facilities:

Station 13-A Equipment

All of Station 13-A, except for the Station 13A Interconnection Customer's Interconnection Facilities designated in 1(a) above.

Station 204 Equipment

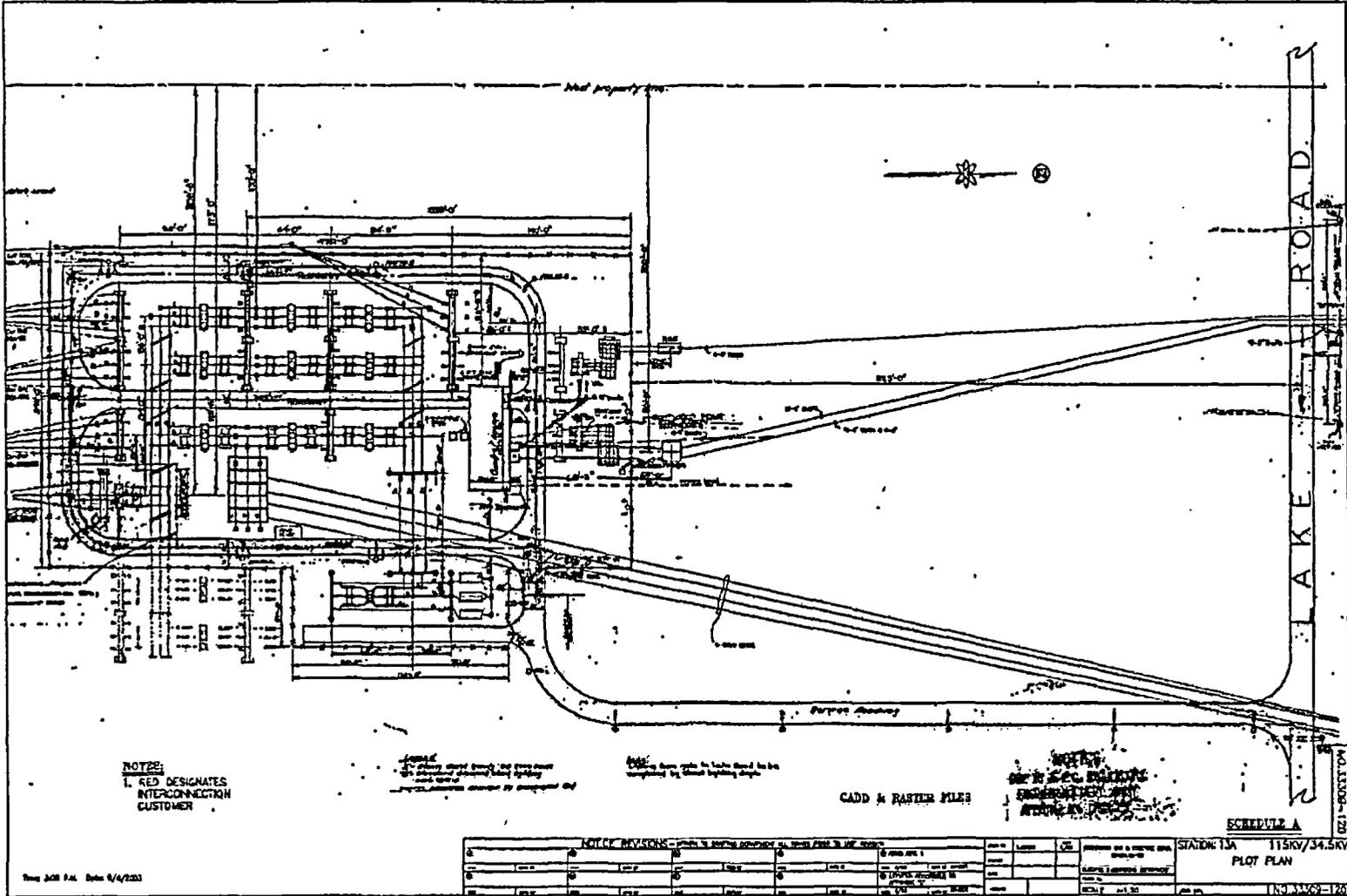
All equipment will be retained by the Transmission Owner (note, Circuit 751 will be retained by the Transmission Owner up to the Station 13 south boundary at Lake Road where the new revenue metering will be installed). The line from this metering point to the Generating Facility will be sold with the Generating Facility.

Joint Use Facilities

Those Joint Use Facilities in Appendix G designated as owned by the Transmission Owner.

2. Network Upgrades: None

3. Distribution Upgrades:



NOTE:
 1. RED DESIGNATES
 INTERCONNECTION
 CUSTOMER

Legend
 1. Red designates interconnection customer
 2. Blue designates interconnection customer
 3. Green designates interconnection customer

NOTE:
 1. Red designates interconnection customer
 2. Blue designates interconnection customer
 3. Green designates interconnection customer

CADD & RASTER FILES

DATE: 11/15/2011
 TIME: 10:00 AM
 PROJECT: STATION 13A
 DRAWING: PLOT PLAN

SCHEDULE A

STATION 13A 115KV/34.5KV
 PLOT PLAN

NO.	DATE	DESCRIPTION	BY	CHECKED	APP. BY
1	11/15/2011	ISSUED FOR CONSTRUCTION			
2					
3					
4					
5					

Sheet 1 of 1 Date: 11/15/2011

115KV/34.5KV-120

**Appendix B
To IA**

Milestones

**Appendix C
To IA**

Interconnection Details

Points of Interconnection

1. The **Delivery Points** for the generator are the jaw ends of switch 9X13A73 and switch 1G13A71, respectively.

2. The **Off-Site Power Supply Points** are
 - (a) The jaw end of switch 6T13A74; and
 - (b) A new metering pole to be installed in circuit 751 at the south property boundary on Lake Road.

Metering Points

DESCRIPTION	LOCATION	COMPENSATION	ESTIMATED COST
Generator	New installation at Station 13Aa on 115kV bus	None	\$20,000
Off-Site Supply #767	New installation at Station 13A on 34.5kV bus	To high side of Transformer No. 6	\$75,000
Off-Site Supply #751	New installation at south property boundary at Lake Road	None	\$95,000
Station 13A House Service	New installation in Control House	None	\$10,000
Oil Cable Pump House	Existing meter at Station 13A	None	None
Distribution Circuit 5241	existing meter(s) to be relocated by Transmission Owner, as required	None	None

**Appendix D
To IA**

Security Arrangements Details

Infrastructure security of Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day Transmission System reliability and operational security. Interconnection Customer, Transmission Owner and Transmission Provider shall comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority.

**Appendix E
To IA**

Commercial Operation Date

This Appendix E is a part of the IA between Transmission Owner and Interconnection Customer.

[Date]

[Transmission Owner Address]

Re: _____ Generating Facility

Dear _____:

On **[Date]** closing under the Asset Purchase Agreement between **[Interconnection Customer]** and Transmission Owner occurred and such date constitutes the Commercial Operation Date of the Generating Facility for purposes of the Interconnection Agreement between Interconnection Customer and Transmission Owner dated as of _____, 2003.

Thank you.

[Signature]

[Interconnection Customer Representative]

**Appendix F
To IA**

Addresses for Delivery of Notices and Billings

Notices:

Transmission Owner:

John D. Hauber
Manager Of System Operation
Rochester Gas and Electric Corporation
89 East Avenue
Rochester NY 14649

Interconnection Customer:

Constellation Generation Group, LLC
750 E. Pratt Street
17th Floor
Baltimore, MD 21202
Attn: Managing Attorney - Generation

Billings and Payments:

Transmission Owner:

William Flood
Account Manager, Marketing And Sales
Rochester Gas and Electric Corporation
89 East Avenue
Rochester, NY 14649
Fax. 585-724-8811
Tel. 585-724-8168

Interconnection Customer:

Constellation Generation Group, LLC
1997 Annapolis Exchange Parkway
Suite 500
Annapolis, MD 21401

Attn: Managing Attorney - Generation

Alternative Forms of Delivery of Notices (telephone, facsimile or email):

Transmission Owner:

John Hauber
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Appendix G

Joint Use Facilities

Station 13A Joint Use Facilities

The following equipment owned by the Interconnection Customer are hereby designated as Joint Use Facilities:

1. Motor-operated disconnect switch 1G13A71.
2. 115kV circuit breaker 1G13A72.
3. Disconnect switch 1G13A73.
4. 3 - 96kV surge arresters between disconnect switches 9X13A71 and 1G13A73.
5. Disconnect switch 9X13A71.
6. 115kV circuit breaker 9X13A72.
7. Motor-operated disconnect switch 9X13A73.
8. Duplex panels 1F, 1R and 2F.
9. Dual Unit 1.
10. Tone equipment cabinet.
11. Pilot wire cabinet.
12. Isolation cabinet.
13. Disconnect switch 6T13A74.
14. #6 Transformer.

The following equipment owned by the Transmission Owner are hereby designated as Joint Use Facilities:

1. Two (2) 3000 amps current transformers that are used for switchboard and revenue metering.
2. 3-69kV potential transformers that are used for control, switchboard and revenue metering.
3. Disconnect switch 6T13A71.
4. 115kV circuit breaker 6T13A72.
5. Disconnect switch 6T13A73.
6. Duplex panels 6F and 6R.
7. Dual Unit 6.
8. Duplex Panel 2R - this panel contains circuit 911 relays.
9. Disconnect switch 8X13A71.
10. 115kV circuit breaker 8X13A72.
11. Disconnect switch 8X13A73.
12. Duplex panels 5F and 5R.
13. Dual Unit 4.
14. Primary and Secondary DC Systems.
15. AC Station Service System.
16. Disconnect Switch K13A35 and Normal House Service.

Generating Facility Joint Use Facilities

The following equipment owned by the Interconnection Customer are hereby designated as Joint Use Facilities:

1. Disconnect switch 76703.
2. 34kV circuit breaker 76702.
3. Disconnect switch 76701.
4. Disconnect switch 75113.
5. 34kV circuit breaker 75112.
6. Disconnect switch 75111.

Appendix II

Operating Parameters

Appendix H

The entire output of the Generating Facility -(up to 590 MW net) can be transmitted into the New York State energy market through Transmission Owner's 115kV connections to the Transmission System under system normal operating conditions, and under certain contingency conditions in accordance with this Appendix H. This is true for both summer and winter operating conditions.

The Generating Facility output is interconnected to the Transmission System through five 115kV transmission lines that are owned and operated by Transmission Owner:

- Line number 908 that ties Substation 13A to Substation 121;
- Line number 909 that ties Substation 13A to Substation 216, 230 and 424;
- Line number 911 that ties Substation 13A to Substation 42;
- Line number 912 that ties Substation 13A to Substation 122; and
- Line number 913 that ties Substation 13A to Substation 124;

Transmission line number 912 (Substation 13A to Substation 122) is an express feed from the Generating Facility to the Transmission System, through a 345kV/115kV transformer at Substation 122. The other four 115kV lines intersect with other Transmission Owner substations that feed the Greater Rochester Area load, or other Transmission Owner 115kV and 34.5kV transmission lines before electrically connecting with the Transmission System.

Transmission lines 908 and 913 are constructed on a double circuit tower structure for about a 3.5-mile portion of their length. Lines 911 and 912 also share a double circuit tower structure configuration for about a 3.6-mile portion of their length.

While no planned or unplanned outage of any single 115kV transmission line will impact the operating levels of the Generating Facility up to 590MW net, there are certain unique maintenance and contingency conditions on the two double circuit sections of the Transmission Owner's transmission lines, which are included in the five 115kV transmission lines that exit Substation 13A, that may require operating restrictions at the Generating Facility.

Appendix H

The Generating Facility has demonstrated its capability of reducing its electric output at an emergency ramp rate in the event of certain operating contingencies. This rate of response capability would only be needed for the loss of three of the five transmission lines that exit Substation 13A. Upon the occurrence of certain operating contingencies (including (a) the outage of one of the 115kV transmission lines described above, or (b) the outage of a double circuit tower structure), Transmission Owner will request (each, a "Request for Certification") that the Interconnection Customer certify, first verbally by telephone to the Transmission Owner system operator, and then, within fifteen (15) minutes, in writing, the Generating Facility's capability to ramp down to the designated output level identified by Transmission Owner within fourteen (14) minutes following Interconnection Customer's receipt of telephonic notice of the occurrence of the loss of any additional facilities that result in three transmission facilities being out of service. Upon a request for Certification, Interconnection Customer's verbal certification ("Verbal Certification"), followed by written certification within fifteen (15) minutes ("Written Certification"), will allow for unrestricted generation operation up to 590MW net, for all planned maintenance of any single Transmission Owner 115kV transmission line, or a double circuit tower structure, under Good Utility Practice and the contingency loss of any additional facility, or structure, that removes three of Transmission Owner's five 115kV transmission lines that exit Substation 13A. Interconnection Customer will provide Written Certification in accordance with the foregoing, via the "Form of Written Certification" set forth below in this Schedule H. If Interconnection Customer fails to provide such Verbal Certification and/or Written Certification, then Interconnection Customer shall be required to reduce the output of the Generating Facility immediately to the designated output level identified by Transmission Owner until Interconnection Customer receives written notice from Transmission Owner that the first contingency no longer exists. This generator output reduction would be required to ensure that Transmission Owner's transmission, distribution, and substation facilities would be unharmed as a result of electric thermal overload or over voltage conditions caused by Generating Facility's electric output during a subsequent unplanned outage of a third of the five 115kV transmission facilities that exit Substation 13A.

Appendix H

Interconnection Customer's failure to comply with this Appendix H shall constitute a breach under Article 17 of this Agreement.

Appendix H

Form of Written Certification

_____ [Insert Legal Name of Interconnection Customer] _____ hereby

certifies that, in response to Transmission Owner's Request for Certification of

_____[insert date and time]_____, (1) the Generating Facility is capable of ramping down its electrical output to _____ MW over a 14 minute period; and (2) Interconnection Customer shall immediately begin such ramp down upon telephonic notification by Transmission Owner to Interconnection Customer's system operator that an operating condition requiring such a reduction has occurred.

Certified by _____[name]_____, an authorized representative of Interconnection Customer, this _____[insert day and time_____]:

[Name]

[Title]

Appendix I
Substation Components
[None]

Appendix J

Transmission Owner's Bulletin 86-01

Appendix K
Energy System Operating Rules