

Part [6]. Physically Settled Power Transactions

(a) Power Transactions under this Agreement; Credit Support Documents

(i) ***Power Transactions.*** The provisions of this Part [6] shall apply solely to transactions between the parties for the purchase or sale of a Product (as defined below) on a spot or forward basis or as an option to purchase, sell or transfer a Product (collectively, “Power Transactions”). All Power Transactions will be deemed to have been entered into in accordance with the terms of this Agreement and shall be Transactions for the purposes hereof. A subsequent agreement between the parties to settle a Power Transaction without involving a physical delivery of a Product shall not affect such Power Transaction’s status as a Power Transaction under this Part [6]. In the event of any inconsistency among or between the other provisions of this Agreement and this Part [6], this Part [6] will govern with respect to Power Transactions.

(ii) ***Applicability to Outstanding Power Transactions.*** If elected under clause (j) as being applicable: upon the effectiveness of this Part [6], all Power Transactions then outstanding (“Outstanding Power Transactions”) shall be Transactions for purposes of this Agreement and shall be governed by and subject to the terms and conditions of, this Agreement. All confirmations evidencing such Outstanding Power Transactions shall constitute “Confirmations” within the meaning of this Agreement that supplement, form part of and are subject to this Agreement. If any Confirmation issued or entered into in respect of one or more Outstanding Power Transactions was issued or entered into pursuant to the terms of a master agreement or in a form that contains non-economic substantive provisions such as those relating to default and termination rights (such master agreement or the portion of such Confirmations containing such non-economic terms being referred to herein as the “Prior Master Agreement”), then the terms of the Schedule and the pre-printed form of this Agreement shall automatically supersede such Prior Master Agreement effective upon the execution of this Part [6].

(iii) ***Credit Support Documents.*** If elected under clause (j) as being applicable:

(A) ***Outstanding Credit Support.*** The parties agree that to the extent any collateral, margin, performance assurance or other similar form of credit support (such credit support, excluding guarantees, being referred to herein as “Outstanding Credit Support”) is held by a party in connection with the obligations of the other party under Outstanding Power Transactions, such Outstanding Credit Support shall be deemed to have been delivered in respect of the obligations of the other party under Outstanding Power Transactions.

The parties further agree that with respect to any Outstanding Credit Support that (x) if the parties have entered into a Credit Support Document in connection with this Agreement that governs the provision of collateral, margin, performance assurance or other similar form of credit support (such Credit Support Document, an “Existing ISDA® Credit Support Document”) then the Outstanding Credit Support shall be deemed to constitute credit support provided under such Existing ISDA Credit Support Document and such Existing ISDA Credit Support Document shall automatically supercede any agreement between the parties pursuant to which the Outstanding Credit Support was provided (the “Outstanding Credit Support Document”) effective upon the execution of this Part [6] and (y) if the parties have not entered into an Existing ISDA Credit Support Document, then the Outstanding Credit Support Document constitutes a Credit Support Document with respect to the party that provided such credit support.

(B) *Amendments/Guaranties.* The parties agree that they will enter into such amendments to any Outstanding Credit Support Document as may be necessary to give effect to the terms of this clause (a)(iii). To the extent that a guaranty was delivered in connection with a party's obligations under Outstanding Power Transactions or a Prior Master Agreement, that party represents and warrants that any amendments necessary to ensure that the guaranty would extend to Transactions subject to this Agreement have been made prior to the effectiveness of this Part [6] and agrees (x) that such guaranty constitutes a Credit Support Document with respect to the obligations of such party and (y) the guarantor under such guaranty constitutes a Credit Support Provider with respect to the obligations of such party.

(b) **Obligations and Deliveries**

(i) *Seller's and Buyer's Obligations.* With respect to each Power Transaction, Seller shall sell and deliver, or cause to be delivered, the Quantity of the Product to the Delivery Point. Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point and shall pay Seller the Contract Price. However, with respect to options, the obligations set forth in the preceding two sentences shall only arise if the option is exercised in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

(ii) *Transmission and Scheduling.* Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers, as specified by the parties in the Power Transactions, or in the absence thereof, in accordance with the practice of Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

(iii) *Force Majeure.* To the extent either party is prevented by Force Majeure from carrying out, in whole or part, its obligations under any Power Transaction and such party (the "Claiming Party") gives notice and details of the Force Majeure to the other party (the "non-Claiming Party") as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Power Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. 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. If the pre-printed form portion of this Agreement is the 2002 ISDA Master Agreement form, Section 5(b)(ii) of this Agreement shall not apply to any Power Transaction.

(c) **Remedies for Failure to Deliver or Receive; Limitation on Condition Precedent**

(i) *Seller Failure.* If Seller fails to Schedule and/or deliver all or part of the Product pursuant to a Power Transaction, and such failure is not excused under the terms of the Product or by Buyer's failure to perform, then Seller shall pay Buyer on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified in clause (j), within five (5) Local Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the

Contract Price from the Replacement Price (as defined below). The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

(ii) **Buyer Failure.** If Buyer fails to Schedule and/or receive all or part of the Product pursuant to a Power Transaction and such failure is not excused under the terms of the Product or by Seller's failure to perform, then Buyer shall pay Seller on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified in clause (j), within five (5) Local Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price (as defined below) from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

(iii) **Limitation on Condition Precedent.** Section 2(a)(iii) of this Agreement is hereby amended by adding the following phrase at the end of clause (1) immediately before the last comma of such phrase:

"(provided, however, that in relation to any Transaction that is a Power Transaction, if an Event of Default or a Potential Event of Default has occurred and is continuing for longer than ten (10) NERC Business Days without an Early Termination Date being designated, then the condition specified in this clause (1) shall cease to be a condition precedent to the obligations under Section 2(a)(i))."

(d) **Payment**

(i) **Billing Period.** Unless otherwise specifically agreed upon by the parties, the calendar month shall be the standard period for all payments pursuant to any Power Transaction under this Agreement (other than (x) payments due as a result of the designation of an Early Termination Date; (y) any option premium payments; or (z) if "Accelerated Payment of Damages" is specified as being applicable, payments due pursuant to clauses (c)(i) and (c)(ii)). As soon as practicable after the end of each month, each party will render to the other party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

(ii) **Timeliness of Payment.** The parties shall designate which of the following two options shall apply with respect to the timing of when payment obligations are due in relation to Power Transactions:

Option A: Unless otherwise agreed by the parties, all invoices for payment pursuant to a Power Transaction shall be due and payable in accordance with each party's invoice instructions on or before the later of the fifth (5th) Local Business Day of each month, or the second (2nd) Local Business Day after receipt of the invoice.

Option B: Unless otherwise agreed by the parties, all invoices for payment pursuant to a Power Transaction shall be due and payable in accordance with each party's invoice instructions on or before the later of the twentieth (20th) day of each month, or the tenth (10th) day after receipt of the invoice or, if such day is not a Local Business Day, then on the next Local Business Day.

Each party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Default Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(iii) **Payment for Options.** The premium amount for the purchase of an option shall be paid within two (2) Local Business Days of receipt of an invoice from the option seller. Upon exercise of an option, payment for the Product underlying such option shall be due in accordance with the applicable provisions of clauses (d)(i) and (d)(ii).

(iv) **Power Transaction Netting.** If the parties enter into one or more Power Transactions, which in conjunction with one or more other outstanding Power Transactions, constitute Offsetting Power Transactions, then all such Offsetting Power Transactions may, by agreement of the parties, be netted into a single Power Transaction under which:

(A) the party obligated to deliver the greater amount of Product will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Power Transactions, and

(B) the party owing the greater aggregate payment will pay the net difference owed between the parties.

Each single Power Transaction resulting under this clause shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Power Transaction occurs, outstanding obligations under the Offsetting Power Transactions which are satisfied by such offset shall terminate. For the purposes of this Part [6], "Offsetting Power Transaction" shall mean any two or more Power Transactions having the same or overlapping Delivery Period(s) (as specified in the Power Transaction), Delivery Point and payment date, where under one or more of such Power Transactions, one party is the Seller and under the other such Power Transaction(s) the same party is the Buyer.

(e) **Limitation of Liability**

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS CLAUSE (E), THE FOLLOWING PROVISION SHALL APPLY SOLELY TO POWER TRANSACTIONS, AND NOTHING IN THIS PROVISION SHALL AFFECT THE ENFORCEABILITY OF SECTION 6 OF THIS AGREEMENT WITH RESPECT TO POWER TRANSACTIONS OR OTHERWISE.

THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A POWER TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES

CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE IS SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

(f) **Taxes**

(i) **Cooperation.** Each party shall use reasonable effort to implement the provisions of and to administer this Agreement insofar as it applies to Power Transactions in accordance with the intent of the parties to minimize all Taxes, so long as neither party is materially adversely affected by such efforts.

(ii) **Taxes.** Notwithstanding Section 2(d) of this Agreement, Seller shall pay or cause to be paid all Taxes imposed by any government authority on or with respect to the Product or a Power Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the Product or a Power Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Taxes which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Taxes. If Buyer is required by law or regulation to remit or pay Taxes which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Taxes from the sums due to Seller under this Agreement. Nothing shall obligate or cause a party to pay or be liable to pay any Taxes for which it is exempt under the law.

(g) **Title, Risk of Loss and Indemnity**

(i) **Title and Risk of Loss.** Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

(ii) **Indemnity.** Each party shall indemnify, defend and hold harmless the other party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such party as provided for herein. Each party shall indemnify, defend and hold harmless the other party against any Taxes for which such party is responsible.

(h) **Miscellaneous**

(i) **Tariff.** Seller agrees to provide service to Buyer, and Buyer agrees to pay Seller for such service, in accordance with Seller's Tariff, if any, and the terms of this Agreement. Each party agrees that if it seeks to amend any Tariff during the term of this Agreement, such amendment will not in any way affect outstanding Power Transactions under this Agreement without the prior written consent of the other party. Each party further agrees that it will not assert, or defend itself, on the basis that any applicable Tariff is inconsistent with this Agreement. For the purposes of this Part [6] "FERC" shall mean the Federal Energy Regulatory Commission. Each of the Party A FERC Electric Tariff and the Party B FERC Electric Tariff is referred to

herein as a “Tariff” and collectively as the “Tariffs”, which Tariffs, to the extent applicable as set forth in clause (j), are incorporated herein.

(ii) **Severability.** If elected under clause (j) as being applicable with respect to Power Transactions only, any provision of this Agreement declared or rendered unlawful by any applicable court or law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events being referred to herein as a “Regulatory Event”) will not otherwise affect the remaining lawful obligations that arise under this Agreement. The parties agree that if a Regulatory Event occurs, they will use their best efforts to reform this Agreement with respect to Power Transactions only to give effect to the original intention of the parties; provided, however, that nothing in this provision shall affect the enforceability of Sections 5 or 6 of this Agreement with respect to Power Transactions or otherwise.

(iii) **FERC Standard of Review; Certain Covenants and Waivers.** If elected under clause (j) as being applicable:

(A) Absent the agreement of all parties to the proposed change, the standard of review for changes to any provision of this Agreement (including all Power Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the parties herein, whether proposed by a party, a non-party or FERC acting *sua sponte*, shall be the “public interest” standard of review set forth in United Gas Pipe Line 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 “Mobile-Sierra” doctrine).

(B) The parties, for themselves and their successors and assigns, (y) agree that this “public interest” standard of review shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the parties in connection with this Agreement and (z) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the “just and reasonable” standard, provided that this standard of review and the other provisions of this clause (h)(iii) shall only apply to proceedings before the FERC or appeals thereof.

(C) In addition, and notwithstanding the foregoing clauses (h)(iii)(A) and (B), to the fullest extent permitted by applicable law, each party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any provision of this Agreement (including any applicable Power Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the parties, it being the express intent of the parties that, to the fullest extent permitted by applicable law, the “sanctity of contract” principles acknowledged by FERC in its Notice of Proposed Policy Statement (issued August 1, 2002) in Docket No. PL02-7-000, Standard of Review for Proposed Changes to Market-Based Rate Contracts for Wholesale Sales of Electric Energy by Public Utilities (“NPPS”) shall prevail and neither of them shall unilaterally seek to obtain from FERC any relief changing the rate(s) and/or other material economic terms and conditions of their agreement(s), as set forth in this Agreement and in any Power Transactions or Confirmations, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this clause (h)(iii) shall not apply, provided

that, consistent with clause (h)(iii) neither party shall seek any such changes except under the “public interest” standard of review and otherwise as set forth in clauses (h)(iii)(A) and (B).

(D) In connection with the foregoing, the parties acknowledge that, pursuant to the NPPS, FERC has invited interested persons to submit comments with respect to the provisions thereof and therefore agree that, if and to the extent FERC adopts in a final or subsequent policy statement (“FPS”) the use of specific language which varies from that set out in clause (h)(iii)(A) above, then clause (h)(iii)(A) shall, without further action of either party, be deemed amended to reflect such specific language, provided that to the extent that the specific language adopted in an FSP is in any way inconsistent with the mutual intent of the parties in this regard as currently set forth in clauses (h)(iii)(A) and (B), then the parties agree to meet to attempt to negotiate in good faith an amendment to this clause (h)(iii) to address such inconsistencies, provided further that neither party shall be obligated in any way to agree to any such amendment if to do so would be inconsistent with such current mutual intent as expressed herein or would expose such party in any way to greater risk of changes being ordered by FERC to the parties’ agreement as set forth in this Agreement and any Power Transactions and/or Confirmations.

(i) Certain Modifications to this Agreement

(i) **Single Agreement: Section 1(c).** With respect to all Power Transactions, the words “, the Tariffs, if any” are hereby added immediately following “this Master Agreement” in Section 1(c) of this Agreement.

(ii) **Events of Default: Sections 5(a)(i) and 5(a)(ii)(1).**

(A) With respect to all Power Transaction, the words “or delivery” are hereby deleted in Section 5(a)(i) of this Agreement.

(B) With respect to all Power Transaction, the words “(or to deliver or receive the Product, the exclusive remedy for which is provided in clause (c) of Part [6] of the Schedule)” are hereby added at the end of the parenthetical of Section [5(a)(ii)][5(a)(ii)(1)] of this Agreement.

(iii) **Effect of Designating an Early Termination Date: Section 6(c)(i).** Section 6(c)(i) of this Agreement is hereby amended by adding the following phrase at the end of such section:

“(it being understood, that to the extent in the reasonable opinion of the Non-defaulting Party or the Non-Affected Party, as the case may be, any of the Terminated Transactions that are Power Transactions may not be liquidated and terminated under applicable law on the Early Termination Date, then such Terminated Transactions shall be liquidated and terminated as soon as thereafter as is reasonably practicable)”.

(iv) **Definitions: Section 14.** Section 14 of this Agreement is hereby amended by adding the following definitions:

“Buyer” means the party to a Power Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in a Power Transaction.

“Contract Price” means the price in U.S. Dollars (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in a Power Transaction.

“Delivery Point” means the point at which the Product will be delivered and received as specified in a Power Transaction.

“Force Majeure” means an event or circumstance which prevents the Claiming Party from performing its obligations under one or more Power Transactions, which event or circumstance was not anticipated as of the date the Power Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller’s supply; or (iv) Seller’s ability to sell the Product at a price greater than the Contract Price. Neither party may raise a claim of Force Majeure based in whole or in part on curtailment by the Transmission Provider unless (i) such party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the Transmission Provider’s tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Power Transaction is governed by the terms of the Products and the Related Definitions contained in Schedule P.

“NERC Business Day” means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant party’s place of business. The relevant party, in each instance unless otherwise specified, shall be the party to whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

“Product” means electric capacity, energy or other product(s) related thereto specified in a Power Transaction by reference to a Product listed in Schedule P, which is incorporated herein, or as otherwise specified by the parties in the Power Transaction.

“Quantity” means the quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller, as specified in a Power Transaction.

“Replacement Price” means (A) the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Power Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, (B) the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

“Sales Price” means (A) the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, (B) the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

“Schedule” or “Scheduling” means the action of Seller, Buyer and/or their designated representatives, including each party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

“Schedule P” means “Schedule P: Products and Related Definitions” to the Master Power Purchase & Sale Agreement published and modified from time to time by the Edison Electric Institute.

“Seller” means the party to a Power Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in a Power Transaction.

“Transmission Provider” means any entity or entities transmitting or transporting Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Power Transaction.

(j) Elective Provisions

1. (a)(ii) Applicability of Part [6] to Outstanding Power Transactions. If not checked, not applicable.
2. (a)(iii) Applicability of Outstanding Credit Support held by a party in connection with Outstanding Power Transactions. If not checked, not applicable.
3. (c) Accelerated Payment Damages. If not checked, not applicable.
4. (d)(ii): Timeliness of Payment

Option A

Option B

If neither is checked, Option B shall be deemed to apply.

5. (h)(i): Wholesale Power Tariffs
 Party A Electric Tariff. Tariff/Date/Docket _____
 Party B Electric Tariff. Tariff/Date/Docket _____

If not checked, not applicable.

6. (h)(ii) __Applicability of Severability provision. If not checked, not applicable.
7. (h)(iii)__Applicability of FERC Standard of Review and Certain Covenants and Waivers. If not checked, not applicable.