

## Appendix A

**Note:** The following Appendix will not be published in the *Code of Federal Regulations*.

LIST OF PETITIONERS REQUESTING REHEARING AND/OR CLARIFICATION  
(Petitioner acronyms)

Acronym	Name
APPA/NRECA .....	American Public Power Association and the National Rural Electric Cooperative Association.
EEI .....	Edison Electric Institute.
NARUC .....	National Association of Regulatory Utility Commissioners.
Occidental .....	Occidental Chemical Corporation.
TAPSG .....	Transmission Access Policy Study Group.

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 35

[Docket No. RM02-12-002; Order No. 2006-B]

## Standardization of Small Generator Interconnection Agreements and Procedures

Issued July 20, 2006.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order on clarification.

**SUMMARY:** The Federal Energy Regulatory Commission clarifies one issue regarding Order No. 2006-A. Order Nos. 2006-A and 2006 require all public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to file revised open access transmission tariffs containing standard small generator interconnection procedures and a standard small generator interconnection agreement, and to provide interconnection service under them to small generating facilities of no more than 20 megawatts.

**DATES:** *Effective Date:* August 28, 2006.

**FOR FURTHER INFORMATION CONTACT:** Michael G. Henry (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502-8532.

Kirk F. Randall, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502-8092.

## SUPPLEMENTARY INFORMATION:

**Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly; Order on Clarification**

## I. Introduction

1. This order grants a request for clarification of Order No. 2006-A submitted by Southern California Edison (SoCal Edison).<sup>1</sup> Order Nos. 2006 and 2006-A require that all public utilities that own, control, or operate facilities used for transmitting electric energy in interstate commerce<sup>2</sup> have on file with the Commission standard generator interconnection procedures (*pro forma* SGIP) and a standard small generator interconnection agreement (*pro forma* SGIA) for interconnecting with the Transmission Provider's Transmission System any Small Generating Facility capable of producing no more than 20 megawatts of power.<sup>3</sup> Order No. 2006 requires that all public utilities subject to it modify

<sup>1</sup> Standardization of Small Generator Interconnection Agreements and Procedures, Order No. 2006, 70 FR 34189 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 (2005) (Order No. 2006), *order on reh'g*, Order No. 2006A, 70 FR 71760 (November 30, 2005), FERC Stats. & Regs. ¶ 31,196 (2005).

<sup>2</sup> A public utility is a utility that owns, controls, or operates facilities used for transmitting electric energy in interstate commerce, as defined in section 201(e) of the Federal Power Act (FPA). 16 U.S.C. 824(e) (2000). A non-public utility that seeks voluntary compliance with the reciprocity condition of an open access transmission tariff may satisfy that condition by adopting these procedures and agreement, or by filing interconnection rules that substantially conform with, or are superior to, the *pro forma* SGIP and *pro forma* SGIA.

<sup>3</sup> Capitalized terms used in this order have the meanings specified in the Glossaries of Terms or the text of the *pro forma* SGIP or the *pro forma* SGIA. Small Generating Facility means the device for which the Interconnection Customer (the owner or operator of the Small Generating Facility) has requested interconnection. The utility with which the Small Generating Facility is interconnecting is the Transmission Provider. A Small Generating Facility is a device used for the production of electricity having a capacity of no more than 20 megawatts. The interconnection process begins when the Interconnection Customer submits an application for interconnection (Interconnection Request) to the Transmission Provider.

their open access transmission tariffs (OATTs) to include the *pro forma* SGIP and *pro forma* SGIA. On November 22, 2005, the Commission issued Order No. 2006-A, which modified portions of Order No. 2006.<sup>4</sup>

## II. Background

2. Under Order No. 2006, if the proposed interconnection of the Interconnection Customer's Small Generating Facility with the Transmission Provider's Transmission System does not qualify for review under the accelerated Fast Track Process or the 10 kW Inverter Process, it is evaluated using industry-standard interconnection studies. These studies—the Feasibility Study, the System Impact Study, and the Facilities Study—are performed by the Transmission Provider under the *pro forma* study agreements in the *pro forma* SGIP. These study agreements, to be signed by the Transmission Provider and Interconnection Customer, are similar to, but less complex than, similar agreements for Large Generators contained in Order No. 2003. The Commission developed the *pro forma* SGIP and SGIA to offer a simple process for interconnecting Small Generating Facilities with the nation's electric grid.<sup>5</sup> To this end, the three *pro forma* SGIP study agreements did not include boilerplate contract provisions

<sup>4</sup> Comparable documents for generators larger than 20 megawatts in size are set forth in Order No. 2003 and are referred to as the LGIP and LGIA. See Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 FR 49845 (August 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003) (Order No. 2003), *order on reh'g*, Order No. 2003-A, 69 FR 15932 (March 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004) (Order No. 2003-A), *order on reh'g*, Order No. 2003-B, 70 FR 265 (January 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005) (Order No. 2003-B), *order on reh'g*, Order No. 2003-C, 70 FR 37661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005) (Order No. 2003-C); see also Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,009 (2004).

<sup>5</sup> See Order No. 2006 at P 1, 509.

addressing issues such as waiver, amendment, and governing law.

### III. Request for Clarification

3. Previously, in its request for rehearing of Order No. 2006, SoCal Edison urged the Commission to adopt miscellaneous boilerplate contract provisions in the *pro forma* study agreements. It proposed that the Commission include in the *pro forma* study agreements the miscellaneous provisions contained in article 12 of the *pro forma* SGIA. The Commission did not address this issue in Order No. 2006–A, and on rehearing of that order, SoCal Edison repeats its request.

### Commission Conclusion

4. We agree with SoCal Edison that the *pro forma* SGIP study agreements should contain standard legal terms and conditions. Although these added provisions will lengthen the study agreements, we conclude that their inclusion will benefit both generators and Transmission Providers. Since the period of time between when the study agreements are signed and when the studies are complete is short, we expect that including standard legal protections will clarify each party's legal rights under the study agreements and minimize disputes.

5. We agree with SoCal Edison that certain of the provisions in article 12 of the SGIA provide the necessary clarity and legal protections to the parties, and will therefore adopt several of those provisions, with some minor editorial revisions, into each study agreement. Specifically, we will add to each study agreement articles 12.1 through 12.4 and 12.6 through 12.8 (including provisions on governing law, amendment, third-party beneficiaries, waiver, multiple counterparts, partnership, and severability); as well as articles 12.11 and 12.12 (subcontractors and reservation of rights).<sup>6</sup> We will not include article 12.9 (security arrangements) or article 12.10 (environmental releases) since neither of these provisions is relevant during the study phase of an interconnection project. Nor do we include article 12.5 (entirety of agreement), since it suggests that the SGIP may not be used to interpret the parties' obligations under the study agreements. The new provisions will become articles 13 through 21 of the Feasibility Study Agreement and the System Impact Study Agreement; and articles 11 through 19 of the Facilities Study

Agreement. While this will increase the length of each study agreement, the increase in certainty justifies the inclusion of additional legal boilerplate.

6. We also clarify that section 4 of the *pro forma* SGIP (dealing with matters such as dispute resolution, confidentiality, record retention, etc.) also applies to the interconnection study process. These provisions, along with the contractual provisions being added to the study agreements themselves, provide the parties with a way to resolve disputes and the necessary legal protections should a dispute arise.

### IV. Additional Changes to the SGIA

7. Finally, we note that articles 1.1 through 1.4 of the *pro forma* SGIA are not listed in the *pro forma* SGIA's Table of Contents. We will correct that here. The corrections to article 1 of the Table of Contents are included as Appendix 4 of this order.

### V. Compliance

8. As in Order No. 2006, the tariffs of non-independent Transmission Providers will be deemed to have been modified to include the revised *pro forma* SGIP study agreements and SGIA on the effective date of this order. The non-independent Transmission Provider is not required to make any additional filing before it is otherwise required to do so by Order No. 2006.<sup>7</sup> If a non-independent Transmission Provider seeks to modify the *pro forma* study agreements it must make an FPA section 205 filing explaining why its changes are "consistent with or superior to" the Commission's *pro forma* study agreements.<sup>8</sup>

9. Independent Transmission Providers will be given an additional 60 days after the effective date of this order to make conforming changes. If the Commission has already acted on the independent Transmission Provider's Order Nos. 2006 and 2006–A compliance filing by the effective date of this order, the independent Transmission Provider must make a new compliance filing to incorporate the new provisions (or request variation). If the Commission has not yet acted on the independent Transmission Provider's Order Nos. 2006 or 2006–A compliance filings, the independent

Transmission Provider must submit an amendment to its pending filing. Independent Transmission Providers that have been given an extension of time to make Order Nos. 2006 and 2006–A compliance filings beyond the effective date of this order must include the changes to their study agreements in that filing.

10. Any study agreements signed before the effective date of this order are grandfathered and need not be revised to include the revisions set forth in this order. All study agreements signed on or after the effective date of this order must include the revisions set forth in this order.

### VI. Information Collection Statement

11. Order Nos. 2006 and 2006–A contain information collection requirements for which the Commission obtained approval from the Office of Management and Budget (OMB). The OMB Control Number for this collection of information is 1902–0203. By clarifying the provisions of Order Nos. 2006 and 2006–A, this order does not make substantive modifications to the Commission's information collection requirements and, accordingly, OMB approval for this order is not necessary. However, the Commission will send a copy of this order to OMB for informational purposes.

### VII. Document Availability

12. The Commission will publish the full text of this document in the **Federal Register**. Interested persons also may obtain this document from the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern Time) at 888 First Street, NE., Room 2A, Washington, DC. This document is also available electronically from the Commission's eLibrary system (<http://www.ferc.gov/docs-filing/elibrary.asp>) in PDF and Microsoft Word format. To access this document in eLibrary, type "RM02–12" in the docket number field and specify a date range that includes this document's issuance date. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Help Line at 202–502–8222 or the Public Reference Room at 202–502–8371 Press 0, TTY 202–502–8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

### VIII. Effective Date

13. Changes to Order Nos. 2006 and 2006–A made in this Order on Rehearing will become effective on August 28, 2006.

<sup>6</sup> The revised study agreements (not including unchanged attachments) are included as Appendices 1–3 to this order.

<sup>7</sup> See Order No. 2006 at P 544 (stating that a non-independent Transmission Provider wishing to adopt the *pro forma* SGIP and *pro forma* SGIA without modification may wait until it complies with the Commission's Electronic Tariff Filings rulemaking); see also Electronic Tariff Filings, Notice of Proposed Rulemaking, 69 FR 43929 (Jul. 23, 2004), FERC Stats. & Regs. ¶ 32,575 (2004).

<sup>8</sup> See Order No. 2006 at P 546.

**List of Subjects in 18 CFR Part 35**

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

**Magalie R. Salas,**  
*Secretary.*

**Note:** The following appendices will not appear in the Code of Federal Regulations.

**Appendix 1: Revised Feasibility Study Agreement****Attachment 6****Feasibility Study Agreement**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, ("Interconnection Customer,") and \_\_\_\_\_, a \_\_\_\_\_; existing under the laws of the State of \_\_\_\_\_, ("Transmission Provider"). Interconnection Customer and Transmission Provider each may be referred to as a "Party," or collectively as the "Parties."

**Recitals**

WHEREAS, Interconnection Customer is proposing to develop a Small Generating Facility or generating capacity addition to an existing Small Generating Facility consistent with the Interconnection Request completed by Interconnection Customer on \_\_\_\_\_; and

WHEREAS, Interconnection Customer desires to interconnect the Small Generating Facility with the Transmission Provider's Transmission System; and

WHEREAS, Interconnection Customer has requested the Transmission Provider to perform a feasibility study to assess the feasibility of interconnecting the proposed Small Generating Facility with the Transmission Provider's Transmission System, and of any Affected Systems;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the standard Small Generator Interconnection Procedures.

2.0 The Interconnection Customer elects and the Transmission Provider shall cause to be performed an interconnection feasibility study consistent the standard Small Generator Interconnection Procedures in accordance with the Open Access Transmission Tariff.

3.0 The scope of the feasibility study shall be subject to the assumptions set forth in Attachment A to this Agreement.

4.0 The feasibility study shall be based on the technical information provided by the Interconnection Customer in the Interconnection Request, as may be modified as the result of the scoping meeting. The

Transmission Provider reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the feasibility study and as designated in accordance with the standard Small Generator Interconnection Procedures. If the Interconnection Customer modifies its Interconnection Request, the time to complete the feasibility study may be extended by agreement of the Parties.

5.0 In performing the study, the Transmission Provider shall rely, to the extent reasonably practicable, on existing studies of recent vintage. The Interconnection Customer shall not be charged for such existing studies; however, the Interconnection Customer shall be responsible for charges associated with any new study or modifications to existing studies that are reasonably necessary to perform the feasibility study.

6.0 The feasibility study report shall provide the following analyses for the purpose of identifying any potential adverse system impacts that would result from the interconnection of the Small Generating Facility as proposed:

6.1 Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

6.2 Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;

6.3 Initial review of grounding requirements and electric system protection; and

6.4 Description and non-binding estimated cost of facilities required to interconnect the proposed Small Generating Facility and to address the identified short circuit and power flow issues.

7.0 The feasibility study shall model the impact of the Small Generating Facility regardless of purpose in order to avoid the further expense and interruption of operation for reexamination of feasibility and impacts if the Interconnection Customer later changes the purpose for which the Small Generating Facility is being installed.

8.0 The study shall include the feasibility of any interconnection at a proposed project site where there could be multiple potential Points of Interconnection, as requested by the Interconnection Customer and at the Interconnection Customer's cost.

9.0 A deposit of the lesser of 50 percent of good faith estimated feasibility study costs or earnest money of \$1,000 may be required from the Interconnection Customer.

10.0 Once the feasibility study is completed, a feasibility study report shall be prepared and transmitted to the Interconnection Customer. Barring unusual circumstances, the feasibility study must be completed and the feasibility study report transmitted within 30 Business Days of the Interconnection Customer's agreement to conduct a feasibility study.

11.0 Any study fees shall be based on the Transmission Provider's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.

12.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Transmission Provider shall refund such excess within 30 calendar days of the invoice without interest.

13.0 *Governing Law, Regulatory Authority, and Rules:* The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of \_\_\_\_\_ (where the Point of

Interconnection is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

14.0 *Amendment:* The Parties may amend this Agreement by a written instrument duly executed by both Parties.

15.0 *No Third-Party Beneficiaries:* This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

**16.0 Waiver**

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

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

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

18.0 *No Partnership:* This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

19.0 *Severability:* If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or

provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

20.0 *Subcontractors*: Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

20.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. 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 Provider be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

20.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

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

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of Transmission Provider]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_  
Title: \_\_\_\_\_

[Insert name of Interconnection Customer]

Signed: \_\_\_\_\_

Name (Printed): \_\_\_\_\_  
Title: \_\_\_\_\_

## Appendix 2: Revised System Impact Study Agreement

### Attachment 7

#### System Impact Study Agreement

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, ("Interconnection Customer,") and \_\_\_\_\_, a \_\_\_\_\_ existing under the laws of the State of \_\_\_\_\_, ("Transmission Provider"). Interconnection Customer and Transmission Provider each may be referred to as a "Party," or collectively as the "Parties."

#### Recitals

WHEREAS, the Interconnection Customer is proposing to develop a Small Generating Facility or generating capacity addition to an existing Small Generating Facility consistent with the Interconnection Request completed by the Interconnection Customer on \_\_\_\_\_; and

WHEREAS, the Interconnection Customer desires to interconnect the Small Generating Facility with the Transmission Provider's Transmission System;

WHEREAS, the Transmission Provider has completed a feasibility study and provided the results of said study to the Interconnection Customer (This recital to be omitted if the Parties have agreed to forego the feasibility study.); and

WHEREAS, the Interconnection Customer has requested the Transmission Provider to perform a system impact study(s) to assess the impact of interconnecting the Small Generating Facility with the Transmission Provider's Transmission System, and of any Affected Systems;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the standard Small Generator Interconnection Procedures.

2.0 The Interconnection Customer elects and the Transmission Provider shall cause to be performed a system impact study(s) consistent with the standard Small Generator Interconnection Procedures in accordance with the Open Access Transmission Tariff.

3.0 The scope of a system impact study shall be subject to the assumptions set forth in Attachment A to this Agreement.

4.0 A system impact study will be based upon the results of the feasibility study and the technical information provided by Interconnection Customer in the Interconnection Request. The Transmission Provider reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good

Utility Practice during the course of the system impact study. If the Interconnection Customer modifies its designated Point of Interconnection, Interconnection Request, or the technical information provided therein is modified, the time to complete the system impact study may be extended.

5.0 A system impact study shall consist of a short circuit analysis, a stability analysis, a power flow analysis, voltage drop and flicker studies, protection and set point coordination studies, and grounding reviews, as necessary. A system impact study shall state the assumptions upon which it is based, state the results of the analyses, and provide the requirement or potential impediments to providing the requested interconnection service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. A system impact study shall provide a list of facilities that are required as a result of the Interconnection Request and non-binding good faith estimates of cost responsibility and time to construct.

6.0 A distribution system impact study shall incorporate a distribution load flow study, an analysis of equipment interrupting ratings, protection coordination study, voltage drop and flicker studies, protection and set point coordination studies, grounding reviews, and the impact on electric system operation, as necessary.

7.0 Affected Systems may participate in the preparation of a system impact study, with a division of costs among such entities as they may agree. All Affected Systems shall be afforded an opportunity to review and comment upon a system impact study that covers potential adverse system impacts on their electric systems, and the Transmission Provider has 20 additional Business Days to complete a system impact study requiring review by Affected Systems.

8.0 If the Transmission Provider uses a queuing procedure for sorting or prioritizing projects and their associated cost responsibilities for any required Network Upgrades, the system impact study shall consider all generating facilities (and with respect to paragraph 8.3 below, any identified Upgrades associated with such higher queued interconnection) that, on the date the system impact study is commenced—

8.1 Are directly interconnected with the Transmission Provider's electric system; or

8.2 Are interconnected with Affected Systems and may have an impact on the proposed interconnection; and

8.3 Have a pending higher queued Interconnection Request to interconnect with the Transmission Provider's electric system.

9.0 A distribution system impact study, if required, shall be completed and the results transmitted to the Interconnection Customer within 30 Business Days after this Agreement is signed by the Parties. A transmission system impact study, if required, shall be completed and the results transmitted to the Interconnection Customer within 45 Business Days after this Agreement is signed by the Parties, or in accordance with the Transmission Provider's queuing procedures.

10.0 A deposit of the equivalent of the good faith estimated cost of a distribution

system impact study and the one half the good faith estimated cost of a transmission system impact study may be required from the Interconnection Customer.

11.0 Any study fees shall be based on the Transmission Provider's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.

12.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Transmission Provider shall refund such excess within 30 calendar days of the invoice without interest.

13.0 *Governing Law, Regulatory Authority, and Rules:* The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of \_\_ (where the Point of Interconnection is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

14.0 *Amendment:* The Parties may amend this Agreement by a written instrument duly executed by both Parties.

15.0 *No Third-Party Beneficiaries:* This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

#### 16.0 Waiver

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

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

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

18.0 *No Partnership:* This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any

agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

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

20.0 *Subcontractors:* Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

20.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. 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 Provider be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

20.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

21.0 *Reservation of Rights:* The Transmission Provider shall have the right to make a unilateral filing with FERC to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and the Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications

IN WITNESS THEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of Transmission Provider]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_  
Title: \_\_\_\_\_

[Insert name of Interconnection Customer]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_  
Title: \_\_\_\_\_

## Appendix 3: Revised Facilities Study Agreement

### Attachment 8

#### Facilities Study Agreement

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by and between

\_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, ("Interconnection Customer,") and

\_\_\_\_\_, a \_\_\_\_\_ existing under the laws of the State of \_\_\_\_\_, ("Transmission Provider"). Interconnection Customer and Transmission Provider each may be referred to as a "Party," or collectively as the "Parties."

#### Recitals

WHEREAS, the Interconnection Customer is proposing to develop a Small Generating Facility or generating capacity addition to an existing Small Generating Facility consistent with the Interconnection Request completed by the Interconnection Customer on \_\_\_\_\_; and

WHEREAS, the Interconnection Customer desires to interconnect the Small Generating Facility with the Transmission Provider's Transmission System;

WHEREAS, the Transmission Provider has completed a system impact study and provided the results of said study to the Interconnection Customer; and

WHEREAS, the Interconnection Customer has requested the Transmission Provider to perform a facilities study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to implement the conclusions of the system impact study in accordance with Good Utility Practice to physically and electrically connect the Small Generating Facility with the Transmission Provider's Transmission System.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the standard Small Generator Interconnection Procedures.

2.0 The Interconnection Customer elects and the Transmission Provider shall cause a facilities study consistent with the standard Small Generator Interconnection Procedures to be performed in accordance with the Open Access Transmission Tariff.

3.0 The scope of the facilities study shall be subject to data provided in Attachment A to this Agreement.

4.0 The facilities study shall specify and estimate the cost of the equipment, engineering, procurement and construction work (including overheads) needed to

implement the conclusions of the system impact study(s). The facilities study shall also identify (1) the electrical switching configuration of the equipment, including, without limitation, transformer, switchgear, meters, and other station equipment, (2) the nature and estimated cost of the Transmission Provider's Interconnection Facilities and Upgrades necessary to accomplish the interconnection, and (3) an estimate of the time required to complete the construction and installation of such facilities.

5.0 The Transmission Provider may propose to group facilities required for more than one Interconnection Customer in order to minimize facilities costs through economies of scale, but any Interconnection Customer may require the installation of facilities required for its own Small Generating Facility if it is willing to pay the costs of those facilities.

6.0 A deposit of the good faith estimated facilities study costs may be required from the Interconnection Customer.

7.0 In cases where Upgrades are required, the facilities study must be completed within 45 Business Days of the receipt of this Agreement. In cases where no Upgrades are necessary, and the required facilities are limited to Interconnection Facilities, the facilities study must be completed within 30 Business Days.

8.0 Once the facilities study is completed, a facilities study report shall be prepared and transmitted to the Interconnection Customer. Barring unusual circumstances, the facilities study must be completed and the facilities study report transmitted within 30 Business Days of the Interconnection Customer's agreement to conduct a facilities study.

9.0 Any study fees shall be based on the Transmission Provider's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.

10.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Transmission Provider shall refund such excess within 30 calendar days of the invoice without interest.

11.0 *Governing Law, Regulatory Authority, and Rules:* The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of \_\_\_\_\_ (where the Point of Interconnection is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

12.0 *Amendment:* The Parties may amend this Agreement by a written instrument duly executed by both Parties.

13.0 *No Third-Party Beneficiaries:* This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other

than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

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

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

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

16.0 *No Partnership:* This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

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

18.0 *Subcontractors:* Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

18.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. 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 Provider be liable for the actions or inactions of the Interconnection Customer or its

subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

18.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

19.0 *Reservation of Rights:* The Transmission Provider shall have the right to make a unilateral filing with FERC to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and the Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.  
[Insert name of Transmission Provider]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_  
Title: \_\_\_\_\_  
[Insert name of Interconnection Customer]

Signed: \_\_\_\_\_  
Name (Printed): \_\_\_\_\_  
Title: \_\_\_\_\_

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