

3 RELATIONSHIP BETWEEN ISO AND PARTICIPATING TOs.

3.1 Nature of Relationship.

Each Participating TO shall enter into a Transmission Control Agreement with the ISO.

3.2 ~~Transmission Expansion~~Grid Planning Process.

~~A Participating TO shall be obligated to construct all transmission additions and upgrades within its Service Area that are determined to be needed in accordance with the requirements of this Section 3.2. A Participating TO's obligation to construct such transmission additions and upgrades shall be subject to: (1) its ability, after making a good faith effort, to obtain all necessary approvals and property rights under applicable federal, state, and local laws and (2) the presence of a cost recovery mechanism with cost responsibility assigned in accordance with Section 3.2.7. The obligations of the Participating TO to construct such transmission additions or upgrades will not alter the rights of any entity to construct and expand transmission facilities as those rights would exist in the absence of the TO's obligations under this ISO Tariff or as those rights may be conferred by the ISO or may arise or exist pursuant to this ISO Tariff. In accordance with its responsibility to ensure the reliable and efficient operation of the statewide transmission system, the ISO will assume the lead coordination role in the Grid Planning Process as defined in this Section 3. The Grid Planning Process consists of two stages: (a) development annually of an Initial Integrated Transmission Plan; and (b) the Solicitation for Competitive Alternative to develop and obtain approval of a Final Integrated Transmission Plan.~~

3.2.1 ~~Determination of Need~~Initial Integrated Transmission Plan.

~~The ISO, a Participating TO, or any other Market Participant may determine the need for and propose a transmission system addition. A transmission addition or upgrade is determined to be needed where it would promote economic efficiency or maintain system reliability as set forth below. The ISO will be responsible for developing each year an Initial Integrated Transmission Plan for the ISO Controlled Grid for the next five years. The Initial Integrated Transmission Plan shall consist of the following: (a) a list of transmission projects developed from the consolidation of the Annual Transmission Plans of each of the Participating TOs that have been prepared as described in Section 3.3; (b) a list of transmission projects sponsored under Section 3.4; and (c) a list of~~

projects developed as part of transmission additions or upgrades in connection with a request for generation interconnection governed by Section 5.7.

3.2.1.1 Economically Driven ProjectsDevelopment of Initial Integrated

Transmission Plan. The determination that a transmission addition or upgrade is needed to promote economic efficiency shall be made in any of the following ways:

In developing an Initial Integrated Transmission Plan, the ISO will take the Participating TOs' Annual Transmission Plans or projects that the ISO reasonably deems necessary through the following steps: (a) direct Participating TOs to perform, consistent with the requirements and timeline in the Participating TO's tariff, any System Planning Study or Facility Study that the ISO believes is reasonably necessary to evaluate proposed projects, including studies that allow the evaluation of proposed projects using alternate assumptions, including but not limited to revised load growth, revised levels of generation and alternate projects; (b) solicit, under a reasonable due date, comments by Market Participants or others on the Annual Transmission Plans of the Participating TOs and any other proposed transmission project, and evaluate such comments; and (c) evaluate the proposals and select the transmission projects that (i) conform to the ISO Grid Planning Criteria, Applicable Reliability Criteria, and the technical standards for interconnection of any applicable Participating TO or affected UDC, (ii) are cost-effective and (iii) produce expansions and upgrades that are required for the continued reliable and efficient expansion and operation of the ISO Controlled Grid.

3.2.1.1.1 ~~If the Participating TO or any party questions the economic need for the project (except where the Project Sponsor commits to pay the full cost of construction) the proposal will be submitted to the ISO ADR Procedures for resolution.~~

3.2.1.1.2 ~~Where a Project Sponsor other than the Participating TO commits to pay the full cost of construction of a transmission addition or upgrade and its operation, and demonstrates to the ISO financial capability to pay those costs, such commitment and demonstration shall be sufficient to demonstrate need. To ensure that the Project Sponsor is financially able to pay the costs of the project to be constructed by the Participating TO, the Participating TO may require (1) a demonstration of creditworthiness (e.g. an appropriate credit rating), or (2) sufficient security~~

in the form of an unconditional and irrevocable letter of credit or other similar security sufficient to meet its responsibilities and obligations for the full costs of the transmission addition or upgrade.

3.2.1.1.3 — Where a Project Sponsor asserts that a transmission addition or upgrade is economically beneficial, but that Project Sponsor is unwilling to commit to pay the full cost of the addition or upgrade; where (1) the proposed transmission expansion or upgrade was submitted to the Participating TO but was not included in the transmission expansion plan of that Participating TO in accordance with Section 3.2.2 or (2) the operation date of the planned expansion is not acceptable to the ISO or the Project Sponsor or (3) the Participating TO unreasonably delays implementing or subsequently decides not to proceed with the project, the Project Sponsor may submit its proposal to the ISO ADR Procedure for determination of need. A determination of need shall be made as follows:

3.2.1.1.3.1 — The Project Sponsor shall include in its proposal a showing: (1) that the economic benefits of the proposed transmission addition or upgrade are expected to exceed its costs (giving consideration to any reasonable alternatives to the construction of transmission additions or upgrades), and (2) a proposed pricing methodology for the transmission upgrades that, to the extent practicable, assigns the costs of the planned upgrades to the beneficiaries in proportion to their net benefits.

3.2.1.1.3.2 — If neither any Market Participant nor the ISO disputes the Project Sponsor's showing, then the proposal is determined to be needed.

3.2.1.1.3.3 — If any Market Participant or the ISO disputes the Project Sponsor's showing, then if the proposed transmission addition or upgrade is determined to be needed, the disputing Market Participant, the ISO, or the Project Sponsor may submit to resolution through the ISO ADR Procedure the issues of (1) whether the transmission addition or upgrade is needed on the ground that its economic benefits exceed its costs, (2) whether the beneficiaries of the transmission addition or upgrade can reasonably be identified, and (3) if so, the identity of those beneficiaries and their respective net benefits. If a Market Participant fails to raise through the ISO ADR Procedure a dispute as to whether a proposed transmission addition or upgrade is needed, or as to the identity, if any, of the beneficiary, then the Market Participant shall be

~~deemed to have waived its right to raise such dispute at a later date. The determination under the ISO ADR Procedure as to whether the transmission addition or upgrade is needed and the identity, if any, of the beneficiaries, including any determination by FERC or on appeal of a FERC determination in accordance with that process, shall be final.~~

3.2.1.2 Reliability-Driven Projects Timing.

The ISO will endeavor to finalize and submit to the ISO Governing Board for approval an Initial Integrated Transmission Plan within 120 days after the ISO receives the Annual Transmission Plans from all ~~or the~~ Participating TOs, ~~in coordination with the ISO and Market Participants,~~ through the coordinated planning processes of the WSCC and the RTGs, will identify the need for any transmission additions or upgrades required to ensure system reliability consistent with all Applicable Reliability Criteria. ~~In making this determination, the Participating TO and the ISO, in coordination with the other Market Participants, shall consider lower cost alternatives to the construction of transmission additions or upgrades, such as acceleration or expansion of existing projects, demand-side management, remedial action schemes, constrained-on Generation, interruptible Loads or reactive support. The Participating TO shall perform the necessary studies to determine the facilities needed to meet all Applicable Reliability Criteria. The Participating TO shall provide the ISO and other Market Participants with all information relating to a proposed transmission addition or upgrade that they may reasonably request (other than information available to them through the WSCC or RTG) and shall, through the WSCC or RTG coordinated planning processes, develop the scope of and assumptions for such studies that are acceptable to the ISO and those other Market Participants. The ISO shall be free to propose any transmission upgrades it deems necessary to ensure System Reliability consistent with Applicable Reliability Criteria and subject to appropriate appeals, the TO shall be obligated to construct such lines. After the ISO Operations Date, the ISO, in consultation with Participating TOs and any affected UDCs, will work to develop a consistent set of reliability criteria for the ISO Controlled Grid which the TOs will use in their transmission planning and expansion studies or decisions.~~

3.2.1.3 Publication.

The ISO will publish and make available to the public an Initial Integrated Transmission Plan within five (5) Business Days after its approval by the ISO Governing Board.

3.2.2 ~~Transmission Planning and Coordination~~ Solicitation of Competitive Alternatives.

~~The ISO shall actively participate with each Participating TO and the other Market Participants in the ISO Controlled Grid planning process in accordance with the terms of this ISO Tariff and the Transmission Control Agreement.~~

In order to assure that the expansion of the ISO Controlled Grid is developed consistent with market principles and is cost-effective, the ISO will conduct a solicitation of competitive alternatives to projects identified in the Initial Integrated Transmission Plan, provided that no alternatives will be sought for projects proposed under Sections 3.2.3.1, 3.4 or 5.7 of the ISO Tariff.

3.2.2.1 Request for Proposals. ~~Each Participating TO shall develop annually a transmission expansion plan covering a minimum five-year planning horizon for its service area. Such Participating TO shall coordinate with the ISO and other Market Participants in the development of such plan. The Participating TO shall be responsible for ensuring that its transmission expansion plan meets all Applicable Reliability Criteria. Within ten (10) Business Days after publication of the Initial Integrated Transmission Plan, the ISO will Issue a Request for Proposals for alternatives to the specific projects identified in the Initial Integrated Transmission Plan. Each Project Sponsor of transmission projects identified in the Initial Integrated Transmission Plan, except for those projects proposed or required under Sections 3.2.3.1, 3.4 or 5.7 of the ISO Tariff, will submit, in accordance with the timeline for responses specified in the Request for Proposals, cost information for each proposed transmission project as is required to be submitted by all respondents to the Request for Proposals. The Request for Proposals shall seek all forms of alternatives to the projects, including transmission, generation and load or demand-based proposals.~~

3.2.2.2 Contents of Request for Proposals.

~~The ISO shall review the Participating TOs' transmission expansion plans to ensure that each Participating TO's expansion plans meet the Applicable Reliability Criteria. The Participating TO will provide the necessary assistance and information as part of the coordinated planning process to the ISO to enable it to carry out its own studies for these purposes. If the ISO finds that the Participating TO's plan or projects do not meet the Applicable Reliability Criteria, the ISO will~~

~~provide comments and the Participating TO will reassess its plans, as appropriate. The ISO may also propose new projects or suggest project changes (e.g., timing, project size) for consideration by the Participating TO. Changes or additions made by the ISO and accepted by the TO will be included in the Participating TO's expansion plan. Changes or additions not accepted in the coordinated planning process will be resolved through the ISO ADR Procedure.~~Request for Proposals shall include the following items: (a) identification of the specific projects in the Initial Integrated Transmission Plan for which competitive alternatives are sought; (b) establishment of a response date to the Request for Proposals, which shall be no sooner than sixty (60) days after the issuance of the Request for Proposals; and (c) a description of the screening and evaluation criteria that will be used by the ISO in evaluating the responses. The screening and evaluation criteria will be developed by the ISO with input from Market Participants and others. The criteria may include but not be limited to characteristics such as cost, duration, timing, availability, ability to provide service, environmental impact, and safety.

3.2.2.3 Evaluation of Responses to Request for Proposals.

~~The Participating TO will act as a Project Sponsor for Participating TO proposed economic or reliability projects that are included in its expansion plan. The Participating TO shall provide to the ISO any information that the ISO requires to enable the ISO to comply with WSCC and RTG regional coordination requirements pursuant to Section 3.2.6.~~ISO will initially screen the responses and within twenty-five (25) days from the due date of the responses publish a list of responses, while maintaining the confidentiality of market sensitive information, that have passed the screening criteria. The ISO may choose to direct Participating TOs, to perform, consistent with the requirements and timeline in the Participating TO's tariff, any System Planning Study or Facility Study that the ISO believes is necessary to evaluate the responses quantitatively or qualitatively, including studies that allow the evaluation of the responses using alternate assumptions, including but not limited to revised load growth, revised levels of generation or alternative projects. The ISO may also contract with a third party to perform any such System Planning Study or Facility Study.

3.2.2.4 Timing.

~~The ISO will be a member of the WSCC and applicable RTGs (including WRTA) and participate~~

in WSCC's operation and planning committees, and in the applicable RTG coordinated planning process. No Participating TO, Market Participant nor the ISO shall take any position before the WSCC or an RTG that is inconsistent with a binding decision reached through the ISO ADR Procedure. will endeavor to complete its review, seek ISO Governing Board approval of, and issue a Final Integrated Transmission Plan within ninety (90) days after publication of the list of projects satisfying the screening criteria. The Final Integrated Transmission Plan will include the projects selected under the competitive evaluation criteria, as well as all projects developed under Sections 3.2.3.1, 3.4 or 5.7 of the ISO Tariff that were included in the Initial Integrated Transmission Plan.

3.2.3 ~~Studies to Determine Facilities to be Constructed~~ Development of Approved Projects.

~~Where a Participating TO is obligated to construct or expand facilities in accordance with this ISO Tariff or where the ISO or any Market Participant requests that a Facility Study be carried out, the Participating TO (in coordination with the ISO or the relevant Market Participants as the case may require), shall perform the necessary study or studies to determine the appropriate facilities to be constructed in accordance with the terms set forth in the TO Tariff. The scope of and assumptions for any studies requested by Market Participants sponsoring a transmission addition or upgrade on economic grounds shall be acceptable to the Project Sponsors and the ISO. Any dispute relating to a Facility Study Agreement (including any dispute over the scope of the study or its assumptions) shall be resolved through the ISO ADR Procedures.~~

The development of projects included in the Final Integrated Transmission Plan shall vary depending on the type of project. The development shall be as follows: (a) for projects to be constructed by a Participating TO, the Participating TO shall be responsible for the development of the project, including but not limited to obtaining regulatory and siting approval of the project and regulatory approval of any required cost recovery; (b) for projects under Section 3.4 of the ISO Tariff, the Project Sponsor, or the applicable Participating TO(s) if the Project Sponsor is the ISO, shall be responsible for all aspects of the project, including but not limited to planning, coordination, construction, costs, and regulatory approvals; (c) for projects under Section 5.7 of

the ISO Tariff, the responsibilities for all aspects of the project, including but not limited to planning, coordination, construction, costs and regulatory approvals, shall be governed by Section 5.7; (d) for transmission projects identified through Section 3.2.2, the successful respondent to the Request for Proposals shall be responsible for the development of the project including but not limited to obtaining regulatory and siting approval of the project and regulatory approval of any required cost recovery; and (e) for generation or demand-based projects, the project developer shall be responsible for all aspects of the project, including but not limited to planning, coordination, construction, costs, and regulatory approvals. The developer of generation and demand-based projects shall also be required to execute a contract with the ISO giving the ISO the right to call upon the project to provide the necessary support to the ISO Controlled Grid, as defined in the contract, in a manner consistent with the grid needs satisfied by the project and consistent with the cost used in the evaluation of the selected project pursuant to Section 3.2.2.

3.2.3.1 Expedited Planning and Approval Process.

In order to expedite the planning and approval of transmission projects needed to maintain the reliability of the ISO Controlled Grid, the ISO will consider, on a case-by-case basis, approving proposed transmission projects on an expedited basis. Projects so approved shall not be subject to the requirements of Section 3.2.2. Transmission projects eligible for expedited consideration include, but are not limited to, those required by equipment failure, anticipated equipment failure, load growth that could not be reasonably anticipated, significant changes in Congestion that may impair reliability, and other system anomalies which require prompt action to maintain reliability and which cannot be reasonably addressed through the regular grid planning process. The ISO will develop and post on the ISO's Home Page planning procedures that outline the process and timeline for consideration of projects on an expedited basis.

3.2.4 Operational ReviewRepresentation in Regional Transmission Planning Forums.

The ISO will perform an operational review of all facilities that are to be connected to, or made part of, the ISO Controlled Grid to ensure that the facilities being proposed provide for acceptable

~~operating flexibility and meet all its requirements for proper integration with the ISO Controlled Grid. If the ISO finds that such facilities do not provide for acceptable operating flexibility or do not adequately integrate with the ISO Controlled Grid, the Participating TO will reassess its determination of the facilities required to be constructed. In order to assure consistency with the Grid Planning Process, the ISO will actively participate in all regional transmission planning forums. The ISO will be a member of WSCC and applicable RTGs and participate in WSCC's operation and planning committees and in the applicable RTG coordinated planning process. No Participating TO, Market Participant or the ISO shall take any position before the WSCC or an RTG or other regional coordination forum that is inconsistent with a binding decision reached through the ISO ADR Procedure.~~

~~**3.2.5—State and Local Approval and Property Rights.**~~

~~**3.2.5.1** The Participating TO shall be obligated to make a good faith effort to obtain all approvals and property rights under applicable federal, state and local laws that are necessary to complete the construction of transmission additions or upgrades required to be constructed in accordance with this ISO Tariff. This obligation includes the Participating TO's use of eminent domain authority, where provided by state law.~~

~~**3.2.5.2** If the Participating TO cannot secure any such necessary approvals or property rights and consequently is unable to construct a transmission addition or upgrade, it shall promptly notify the ISO and the Project Sponsor and shall comply with its obligations under the TO Tariff to convene a technical meeting to evaluate alternative proposals. The ISO shall take such action as it reasonably considers appropriate, in coordination with the Participating TO, the Project Sponsor (if any) and other affected Market Participants, to facilitate the development and evaluation of alternative proposals including, where possible, conferring on a third party the right to build the transmission addition or upgrade.~~

~~**3.2.5.3** Where it is possible for a third party to obtain all approvals and property rights under applicable federal, state and local laws that are necessary to complete the construction of transmission additions or upgrades required to be constructed in accordance with this ISO Tariff (including the use of eminent domain authority, where provided by state law) the ISO may confer~~

~~on a third party the right to build the transmission addition or upgrade which shall enter into the Transmission Control Agreement in relation to such transmission addition or upgrade.~~

~~**3.2.6—WSCC and RTG Coordination.**~~

~~The Project Sponsor will have responsibility for completing any applicable WSCC or RTG regional coordination and rating study requirements to ensure that a proposed transmission addition or upgrade meets regional planning requirements. The Project Sponsor may request the Participating TO to perform this coordination on behalf of the Project Sponsor~~

~~**3.2.7—Cost Responsibility for Transmission Expansions or Upgrades.**~~

~~Cost responsibility for transmission additions or upgrades constructed pursuant to this Section 3.2 (including the responsibility for any costs incurred under Section 3.2.6) shall be determined as follows:~~

~~**3.2.7.1** Where a Project Sponsor commits to pay the full cost of a transmission addition or upgrade as set forth in Section 3.2.1.1.2, the full costs shall be borne by the Project Sponsor.~~

~~**3.2.7.2** Where the need for a transmission addition or upgrade is determined by the ISO or as a result of the ISO ADR Procedure as set forth in Section 3.2.1.1.3, the costs shall be borne by the beneficiaries, in the approximate relative proportions by which they benefit, if those beneficiaries and such proportions can reasonably be determined.~~

~~**3.2.7.3** If specific beneficiaries cannot be reasonably identified then the cost of the transmission addition or upgrade borne by the Participating TO that is the owner of the transmission addition or upgrade shall be reflected in its Access Charge. Each of the Project Sponsors and specifically identified beneficiaries shall be entitled to receive:~~

~~(a) its share of the Wheeling revenues attributable to the transmission addition or upgrade which shall be allocated to each of the Project Sponsors and specifically identified beneficiaries in the proportion that the cost of the transmission addition or upgrade borne by it bears to the total cost of the transmission addition or upgrade; and~~

~~(b) a share of any Congestion Charges for the use of a Congested Inter-Zonal Interface of which the transmission addition or upgrade forms part in the proportion that the incremental~~

~~transmission capacity of the Inter-Zonal Interface the cost of which has been allocated to it bears to its total transmission capacity~~

~~3.2.8—Ownership of and Charges for Expansion Facilities.~~

~~3.2.8.1 All transmission additions and upgrades constructed in accordance with this Section 3.2 shall form part of the ISO Controlled Grid and shall be operated and maintained by a Participating TO in accordance with the Transmission Control Agreement.~~

~~3.2.8.2 The Participating TO which owns or operates transmission additions and upgrades constructed in accordance with this Section 3.2 shall provide access to them and charge for their use in accordance with this ISO Tariff and the TO Tariff.~~

~~3.2.9—Expansion by “Local Furnishing” Participating TOs.~~

~~Notwithstanding any other provision of this ISO Tariff, a Local Furnishing Participating TO shall not be obligated to construct or expand facilities, (including interconnection facilities as described in Section 8 of the TO Tariff) unless the ISO or Project Sponsor has tendered an application under FPA Section 211 that requests FERC to issue an order directing the Local Furnishing TO to construct such facilities pursuant to Section 3.2 of the ISO Tariff. The Local Furnishing TO shall, within 10 days of receiving a copy of the Section 211 application, waive its right to a request for service under FPA Section 213(a) and to the issuance of a proposed order under FPA Section 212(c). Upon receipt of a final order from FERC that is no longer subject to rehearing or appeal, such Local Furnishing TO shall construct such facilities in accordance with this Section 3.2.~~

3.3 Information Provided By Participating TOs.

Participating TOs shall be responsible for preparing studies and providing information as described in this Section 3.3.

3.3.1 Annual Transmission Plans.

Each Participating TO shall develop annually a transmission plan covering a minimum five-year planning horizon for its service area. Such Participating TO shall coordinate with the ISO and other Market Participants in the development of such plan. All plans shall adhere to a common methodology or format that has been developed by the ISO in consultation with all the Participating TOs, the details of which shall be included in the ISO's planning procedures posted

on the ISO Home Page. The Participating TO shall be responsible for ensuring that its Annual Transmission Plan meets all Applicable Reliability Criteria, ISO Grid Planning Criteria, and factors in items such as load growth, congestion mitigation, LARS requirements, and known new transmission or generation projects.

3.3.1.1 Disputes Regarding Inclusion of Projects in Annual Transmission Plans.

Where a Project Sponsor believes that a transmission addition or upgrade is economically beneficial, but is unwilling to commit to pay the full costs of the addition or upgrade, it may submit its proposal to a Participating TO. If the Participating TO does not include the proposed project in its Annual Transmission Plan, the Project Sponsor may submit its proposal to the ISO ADR Procedure for determination of whether the project should be included in the Annual Transmission Plan. A determination of whether to include the project shall be made as follows:

3.3.1.1.1 The Project Sponsor shall include in its proposal a showing: (a) that the economic benefits of the proposed transmission addition or upgrade are expected to exceed its costs (giving consideration to any reasonable alternatives to the construction of transmission additions or upgrades); and (b) a proposed pricing methodology for the transmission upgrades that, to the extent practicable, assigns the costs of the planned upgrades to the beneficiaries in proportion to their net benefits.

3.3.1.1.2 If no Market Participant disputes the Project Sponsor's showing, then the proposal shall be included in the applicable Participating TO's Annual Transmission Plan.

3.3.1.1.3 If any Market Participant disputes the Project Sponsor's showing, then the disputing Market Participant or the Project Sponsor may submit to resolution through the ISO ADR Procedure the issues of (a) whether the economic benefit of the transmission addition or upgrade exceeds its costs, (b) whether the beneficiaries of the transmission addition or upgrade can or have been reasonably identified, and (c) if so, the identity of those beneficiaries and their respective net benefits. If a Market Participant fails to raise through the ISO ADR Procedure a dispute as to whether a proposed transmission addition or upgrade is economically beneficial, or as to the identity, if any, of the beneficiaries, then the Market Participant shall be deemed to have waived its right to raise such dispute at a later date. The determination under the ISO ADR

Procedure as to whether the transmission addition or upgrade is beneficial and the identity, if any, of the beneficiaries, including any determination by FERC or on appeal of a FERC determination in accordance with that process, shall be final.

3.3.1.1.4 Even if it is finally determined, pursuant to Section 3.3.1.1, that a project should be included in a Participating TO's Annual Transmission Plan, the project shall still be subject to the Grid Planning Process of Section 3.2 of the ISO Tariff, and if the project is not included in the approved Final Integrated Transmission Plan, it shall not be interconnected to the ISO Controlled Grid without the ISO's approval.

3.3.2 Other Studies.

Each Participating TO shall be responsible for preparing any study or providing any relevant information as directed by the ISO in accordance with Section 3.2 of the ISO Tariff and, if applicable, in accordance with the requirements and timelines in the Participating TO's Transmission Owner Tariff.

3.3.3 Other Information.

Each Participating TO and Project Sponsor shall provide the ISO any information that the ISO requires to comply with any of its regional coordination responsibilities pursuant to Section 3.2.4. The ISO shall also provide to a Participating TO or Project Sponsor any information, as may be reasonably available to the ISO and not subject to confidentiality provisions of Section 20.3 of the ISO Tariff, to such Participating TO or Project Sponsor that may be required of such party in order to support a showing before a regional planning body.

3.3.4 Costs of Studies.

The ISO will be responsible for and pay the cost of any studies it directs a Participating TO to make on its behalf or the costs of any information it requires the Participating TO to develop in connection with [Section 3.2.1.1](#) and [Section 3.3.2](#). The Participating TO shall be responsible for the costs of developing the Annual Transmission Plan, including any such studies as may be reasonably necessary as a result of identified deficiencies in the Participating TO's Annual Transmission Plan, and the studies that support such plan, or the need to examine the results of such studies using different assumptions.

3.3.5 Disputes.

Any dispute relating to any study or information required to be provided by a Participating TO or a Project Sponsor under Section 3.2 or 3.3, including disputes regarding costs of providing such studies or information, shall be resolved through the ISO ADR Procedures.

3.4 Economically Driven Projects.

Where a Project Sponsor commits to pay the full cost of construction of a transmission addition or upgrade and its operation, and demonstrates to the ISO financial capability to pay those costs, such commitment and demonstration shall be sufficient to demonstrate that the project is economically driven. The ISO will include economically driven projects in the next succeeding Initial Integrated Transmission Plan proposed by the ISO, and the project shall be included in the Final Integrated Transmission Plan that is thereafter approved by the ISO Governing Board, provided that the project has no adverse impact on the ISO Controlled Grid, as determined by the ISO. To ensure that the Project Sponsor is financially able to pay the costs of the project to be constructed by the applicable Participating TO, the applicable Participating TO may require (1) a demonstration of creditworthiness (e.g. an appropriate credit rating), or (2) sufficient security in the form of an unconditional and irrevocable letter of credit or other similar security sufficient to meet its responsibilities and obligations for the full costs of the transmission addition or upgrade.

3.4.1 The ISO may, on its own initiative, identify and become the Project Sponsor of a transmission project. Any such ISO-sponsored transmission project shall be included in either the applicable Participating TO's Annual Transmission Plan or the Initial Integrated Plan developed by the ISO, subject to the provisions of the ISO's ADR Procedures as provided for in Section 3.3.1.1. If approved by the ISO Governing Board and included in the Final Integrated Transmission Plan, the applicable Participating TO shall construct the transmission project pursuant to Section 3.5.

3.4.1.1 Prior to the ISO sponsoring a transmission project, the ISO will notify Market Participants of its intention to become the Project Sponsor of an economic expansion. The ISO will post on the ISO Home Page all relevant information regarding the proposed project, including the basis on which the ISO believes the project is warranted. If, within thirty (30) days of the

ISO's posting, a Market Participant requests to become the Project Sponsor of the proposed transmission project, such Market Participant shall become the Project Sponsor of said project. To the extent that no Market Participant requests to become the identified Project Sponsor of the project, the ISO will be identified as such and Section 3.4.1 shall apply.

3.5 Construction of Transmission Expansion by Participating TO.

A Participating TO shall be obligated to construct all transmission additions and upgrades within its Service Area that are determined to be required to be constructed in accordance with the requirements of an approved Final Integrated Transmission Plan as described in Section 3.2, above, other than transmission additions and upgrades included in the Final Integrated Transmission Plan as a result of the competitive solicitation process described in Section 3.2.2, to which Section 3.5.1.2 shall apply. A Participating TO's obligation to construct such transmission additions and upgrades shall be subject to: (1) its ability, after making a good faith effort, to obtain all necessary approvals and property rights under applicable federal, state and local laws, and (2) the presence of a cost recovery mechanism with cost responsibility assigned in accordance with Section 3.6.

3.5.1 Property Rights.

The applicable Participating TO shall be obligated to make a good faith effort to obtain all approvals and property rights under applicable federal, state and local laws that are necessary to complete the construction of transmission additions or upgrades within its Service Area required to be constructed in accordance with an approved Final Integrated Transmission Plan. This obligation includes the applicable Participating TO's use of eminent domain authority, where such use is within the scope of the eminent domain authority granted to the Participating TO under state law.

3.5.1.1 If the Participating TO cannot secure any such necessary approvals or property rights and consequently is unable to construct a transmission addition or upgrade, it shall promptly notify the ISO and the Project Sponsor, if applicable, and shall comply with its obligations under the TO Tariff to convene a technical meeting to evaluate alternative proposals. The ISO shall take such action as it reasonably considers appropriate, in coordination with the

Participating TO, the Project Sponsor (if any) and other affected Market Participants, to facilitate the development and evaluation of alternative proposals including, where possible, conferring on a third party the right to build the transmission addition or upgrade.

3.5.1.2 Where it is possible for a third party to obtain all approvals and property rights under applicable federal, state and local laws that are necessary to complete the construction of transmission additions or upgrades required to be constructed in accordance with an approved Final Integrated Transmission Plan (including the use of eminent domain authority, where provided by state law) the ISO may confer on a third party, or the party to whom ownership and control is transferred prior to the in-service date of the project, the right to build the transmission addition or upgrade. Such third party shall enter into a Transmission Control Agreement in relation to such transmission addition or upgrade.

3.5.1.3 **Status of Approved Projects.**

Project Sponsors for projects that have been approved and included in the ISO's Final Integrated Transmission Plan shall keep the ISO and Market Participants apprised, on at least a quarterly basis, of the status of such projects, including the Project Sponsors' efforts to obtain all approvals and property rights under applicable federal, state and local laws that are necessary to complete the construction of the proposed project.

3.6 **Cost Responsibility for Transmission Expansions or Upgrades.**

Cost responsibility for transmission additions or upgrades constructed pursuant to Section 3.2 (including the responsibility for any costs incurred under Section 3.6.2) shall be determined as follows:

3.6.1 Where a Project Sponsor commits to pay the full costs of a transmission addition or upgrade as set forth in Section 3.4, the full costs shall be borne by the Project Sponsor.

Where a project is constructed under Section 5.7, the costs shall be borne as provided in Section 5.7.

3.6.2 Where the need for a transmission addition or upgrade is determined through an approved Final Integrated Transmission Plan, except for those projects encompassed by Section 3.4 or Section 5.7 of the ISO Tariff, the costs (or, in the case of a transmission addition or

upgrade submitted in response to the RFP under Section 3.2.2 and selected through Section 3.2.2, the amount reflected in the respondent's successful bid) shall be borne by the beneficiaries, in the approximate relative proportions by which they benefit, if those beneficiaries and such proportions can reasonably be determined.

3.6.2.1 _____ If specific beneficiaries cannot be reasonably identified, then the cost of the transmission addition or upgrade borne by the Participating TO that is the owner of the transmission addition or upgrade (or, in the case of a transmission addition or upgrade submitted in response to the RFP under Section 3.2.2 and selected through Section 3.2.2, the amount reflected in the respondent's successful bid) shall be reflected in its Access Charge.

3.6.3 _____ Each of the Project Sponsors (except the ISO), specifically identified beneficiaries or applicable Participating TOs identified pursuant to the provisions of Sections 3.6.1, 3.6.2, and 3.6.2.1, shall be entitled to receive:

- (a) _____ its share of the Wheeling revenues attributable to the transmission addition or upgrade, which shall be allocated to each of the Project Sponsors and specifically identified beneficiaries in the proportion that the cost of the transmission addition or upgrade borne by it bears to the total cost of the transmission addition or upgrade; and
- (b) _____ a share of any revenues from the auction of Firm Transmission Rights, Congestion Charges for the use of a Congested Inter-Zonal Interface of which the transmission addition or upgrade forms part in the proportion that the incremental transmission capacity of the Inter-Zonal Interface the cost of which has been allocated to it bears to its total transmission capacity.

3.7 _____ **Cost Responsibility for Non-wires Projects.**

3.7.1 _____ **Cost Recovery by the ISO.**

The costs incurred by the ISO under each non-wires contract entered into pursuant to Section 3.2.3 shall be payable to the ISO by the Participating Transmission Owner in whose Service Area the non-wires project is located. Prior to the ISO assessing the applicable Participating TO for the costs incurred by the ISO under a non-wires contract, each non-wires contract shall be filed by the non-wires Project Sponsor with FERC, if the non-wires contract is subject to FERC

jurisdiction, seeking FERC acceptance of the contract for filing. If the non-wires contract is not subject to FERC jurisdiction, the ISO shall make an informational filing of such contract with FERC. The effectiveness of any non-wires contract executed by the ISO with a FERC jurisdictional non-wires project shall be conditioned upon FERC acceptance of the contract for filing. Payment by the ISO for service procured under each non-wires contract shall be conditioned upon the ability of the ISO to bill and receive payment from the applicable Participating TO for the costs associated with such contract. Payment by the applicable Participating TO to the ISO under this section is conditioned on the ability of the Participating TO to recover such costs through the mechanism described in Section 3.7.2.

3.7.2 Cost Recovery by the Participating TO.

A Participating TO shall recover the cost of each non-wires contract, as assessed to the applicable Participating TO by the ISO pursuant to Section 3.7, as a transmission related expense and shall include such expense in its TRBA, or other applicable mechanism, under its respective TO Tariff. A Participating TO may propose an alternative expense recovery mechanism, which can be used to recover all such expenses, if that alternative is approved by the applicable regulatory authority, if any.

3.7.3 Billing and Payments.

The ISO shall prepare and send to each Participating TO a Participating TO invoice with respect to those costs incurred under each non-wires contract that are payable to the ISO by such Participating TO pursuant to this Section 3.7. The invoices to the Participating TO shall reflect all reductions arising from the non-wires contract or under this Section 3.7. The invoice to the Participating TO shall separately show the amounts due for services from each non-wires project. Each Participating TO shall pay the amount due under its Participating TO invoice by the due date specified in the Participating TO invoice, in default of which interest shall become payable at the interest rate provided in the non-wires contract from the due date until the date on which the amount is paid in full.

3.7.3.1 Trust Accounts.

For each non-wires contract, the ISO shall establish two segregated commercial bank accounts under the "Facility Trust Account." One account, the "Non-wires Project Facility Trust Account," shall be held in trust by the ISO for the non-wires project. The other account, the "Participating TO Facility Trust Account," shall be held in trust by the ISO for the Participating TO. Payments received by the ISO from the Participating TO in connection with the non-wires contract, including payments following termination of the non-wires contract, shall be deposited into the Non-wires Project Facility Trust Account and payments from the ISO to the non-wires project shall be withdrawn from such account. Any payments received by the ISO from the non-wires project in connection with the non-wires contract shall be deposited into the Participating TO Facility Trust Account. Any payments due to the Participating TO of funds received from the non-wires project in connection with the non-wires contract shall be withdrawn from the Participating TO Facility Trust Account. Neither the Non-wires Project Facility Trust Account nor the Participating TO Trust Account shall have other funds commingled in it at any time.

3.7.3.2 No Offsets.

The Participating TO shall pay its invoice without offset, recoupment or deduction of any kind whatsoever. Notwithstanding the foregoing, if the ISO fails to deduct an amount required to be deducted under Section 3.7.3.3, the Participating TO may deduct such amount from payment otherwise due under such invoice.

3.7.3.3 Disputes.

If the Participating TO disputes a Participating TO invoice, it shall pay the invoice, but may pay under protest and reserve its right to seek a refund, with interest, from the ISO. If resolution of the dispute results in an amount paid by the Participating TO under protest being due from the ISO to the Participating TO, then such amount, with interest at the interest rate specified in the applicable non-wires contract from the date of payment

until the date on which the amount is repaid in full, shall be deducted by the ISO from the next succeeding amounts otherwise due from the Participating TO to the ISO with respect to the applicable non-wires contract or, if such contract has terminated, such amount shall be refunded by the ISO to the Participating TO; provided, however, that if and to the extent that such resolution is based on an error or breach or default of the non-wires project's obligations to the ISO under the non-wires contract, then such refund obligation shall extend only to amounts actually collected by the ISO from the non-wires project as a result of such resolution.

3.7.3.3.1 If the Participating TO disputes a Participating TO invoice, based in whole or in part on an alleged error by the non-wires project or breach or default of the non-wires project's obligations to the ISO under the non-wires contract, the Participating TO shall notify the ISO of such dispute within the later to occur of (i) 12 months from its receipt of the applicable invoice from the ISO, or (ii) 60 days from the issuance of a final report with respect to an audit of the non-wires project's operations allowed by a non-wires contract.

3.7.3.3.2 If the Participating TO disputes a Participating TO invoice based in whole or in part on an alleged error by the ISO or breach or default of the ISO's obligations to the Participating TO, the Participating TO shall notify the ISO of such dispute prior to the later to occur of (i) 12 months from its receipt of the applicable invoice from the ISO or (ii) 60 days following the date on which a final report is issued in connection with an operational audit, pursuant to Section 12.2.2 of the ISO Tariff, of the ISO's performance of its obligations to Participating TOs under this Section 3.7 conducted by an independent third party selected by the ISO Governing Board and covering the period to which such alleged dispute relates. The ISO or any Participating TO shall have the right to request, but not to require, that the ISO Governing Board arrange for such an operational audit at any time.

3.7.3.3.3 Any Participating TO dispute relating to a Participating TO invoice shall be resolved under the procedures specified in Article 13 of the ISO Tariff. If the Participating TO fails to notify the ISO of any dispute as provided above, it shall be deemed to have validated the invoice and waived its right to dispute such invoice.

3.7.3.4 Third Party Beneficiary.

The non-wires project shall, to the extent set forth herein, be a third party beneficiary of, and have all rights that the ISO has under the ISO Tariff, at law, in equity or otherwise, to enforce the Participating TO's obligation to pay all sums invoiced to it in the Participating TO invoices but not paid by the Participating TO, to the extent that, as a result of the Participating TO's failure to pay, the ISO does not pay the non-wires project on a timely basis amounts due under the non-wires contract. The non-wires project's rights as a third party beneficiary shall be no greater than the ISO's rights and shall be subject to the dispute resolution process specified in Section 13 of the ISO Tariff. Either the ISO or the non-wires project (but not both) shall be entitled to enforce any claim arising from an unpaid Participating TO invoice, and only one party shall be a "disputing party" under the dispute resolution process specified in Section 13 of the ISO Tariff with respect to such claim so that the Participating TO will not be subject to duplicative claims or recoveries. The non-wires project shall have the right to control the disposition of claims against the Participating TO for nonpayment that result in payment defaults by the ISO under a non-wires contract. To that end, in the event of nonpayment by the Participating TO of amounts due under the Participating TO invoice, the ISO shall not take any action to enforce its rights against the Participating TO unless the ISO is requested to do so by the non-wires project. The ISO shall cooperate with the non-wires project in a timely manner as necessary or appropriate to most fully effectuate the non-wires project's rights related to such enforcement, including using its best efforts to enforce the Participating TO's payment obligations if, as, to the extent, and within the time frame, requested by the

non-wires project. The ISO shall intervene and participate where procedurally necessary to the assertion of a claim by the non-wires project.

3.8 Ownership of and Charges for Expansion Facilities.

3.8.1 All transmission additions and upgrades constructed in accordance with an approved Final Integrated Transmission Plan shall form part of the ISO Controlled Grid and shall be operated and maintained by a Participating TO in accordance with the Transmission Control Agreement.

3.8.2 The Participating TO that owns or operates transmission additions and upgrades constructed in accordance with an approved Final Integrated Transmission Plan shall provide access to them and charge for their use in accordance with this ISO Tariff and the applicable TO Tariff.

3.9 Expansion by "Local Furnishing" Participating TOs.

Notwithstanding any other provision of this ISO Tariff, a Local Furnishing Participating TO shall not be obligated to construct or expand facilities, (including interconnection facilities as described in Section 8 of the TO Tariff) unless the ISO or Project Sponsor has tendered an application under FPA Section 211 that requests FERC to issue an order directing the Local Furnishing TO to construct such facilities pursuant to Section 3.2 of the ISO Tariff. The Local Furnishing TO shall, within 10 days of receiving a copy of the Section 211 application, waive its right to a request for service under FPA Section 213(a) and to the issuance of a proposed order under FPA Section 212(c). Upon receipt of a final order from FERC that is no longer subject to rehearing or appeal, such Local Furnishing TO shall construct such facilities in accordance with this Section 3.2.

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Master Definitions Supplement

TRBA (Transmission Revenue Balancing Account)

A mechanism to be established by each Participating TO that has transmission customers which that will ensure (a) that all Transmission Revenue Credits flow through to its transmission customers, and (b) that the costs of each applicable non-wires

project assessed to a Participating TO under Section 3.7 of the ISO's Tariff are recovered from the transmission customers of the applicable Participating TO.