

OPEN ACCESS
TRANSMISSION TARIFF
FOR SERVICE OFFERED BY
SOUTHWEST POWER POOL

The following sheets reflect all revisions approved by FERC in orders issued through May 31, 2007, and all revisions from compliance filings submitted through May 31, 2007.

Issued by: L. Patrick Bourne, Manager
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EXHIBIT A
RESPONSIBILITIES PRIOR TO MARKET IMPLEMENTATION, RIGHTS, AND
OBLIGATIONS

RESPONSIBILITIES PRIOR TO MARKET IMPLEMENTATION

Prior to the implementation of the SPP EIS Market, the External Market Monitor (EMM) will perform the functions delegated to it pursuant to the EMM Agreement, as well as the following tasks:

1. Evaluating the behavior of market participants in the markets administered by SPP, including transmission owners, to identify adverse effects of their conduct on SPP's ability to provide reliable, efficient, and nondiscriminatory service.
2. Periodically assessing whether behavior in the markets in SPP's region that are operated by others affects SPP's operations and how SPP's operations affect the performance of markets operated by others..
3. Filing with the Federal Energy Regulatory Commission and other affected regulatory bodies reports on market design flaws, market power abuses in the markets operated by SPP, including (without limitation) reporting in a timely manner any violations of the Commission's regulations on market manipulation, and on opportunities of market efficiency.

Upon implementation of the SPP EIS Market, SPP's Market Monitor will have the full responsibility for market monitoring under this Tariff, pursuant to Section 3.1 of Attachment AG. However, SPP herein delegates some of those responsibilities by contract to the EMM. The following explains that delegation as well as certain other rights and obligations.

DELEGATION OF RESPONSIBILITIES

The general theme of the delegation of responsibilities is that the EMM focuses on design and periodic monitoring. The following sets out the tasks delegated to the EMM. All other market monitoring functions will be provided by the SPP Market Monitor upon implementation of the SPP EIS Market.

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EMM Responsibilities

1. Proposing to the SPP Board of Directors and designing Market Power Mitigation Measures and Market Monitoring Plan.
2. At the request of SPP, supporting SPP in obtaining Commission approvals including the preparation of testimony and participation in conferences. In that support role, the EMM shall work under the supervision or direction of the Board of Directors or its designate.
3. Recommending to the SPP Board of Directors updates to Mitigation Measures and the Monitoring Plan.
4. Conducting periodic monitoring (to identify and assess trends in market behavior).
5. Produce and provide to entities as required by the Tariff (a) an Annual State of the Market Report to assess the performance of the markets administered by SPP, which shall, among other things, assess the SPP-administered transmission market and energy market structure, examine spot market energy prices in various trading hubs in and around SPP, and report on progress in inter-ISO/RTO coordination efforts; and (b) Quarterly Reports on Instances of Market Power to keep SPP and regulators apprised on the potential for and exercise of market power, and to make recommendations on how to remove the potential for and ability to exercise market power.
6. Review drafts of Quarterly and Annual Metric Reports for Inter-RTO Comparison prepared by the Market Monitor or, if directed to do so by the SPP Board of Directors, prepare such reports with substantial support from the Market Monitor, and provide such reports to entities as required by the Tariff. Such reports will provide a standardized basis to compare the performance of SPP's market structure and market power mitigation with that of other ISOs/RTOs.
7. Review SPP's Market Design and recommend changes to the SPP Board of Directors as necessary.
8. Produce an Annual Review of the Market Monitor for the SPP Board of Directors.
9. As directed by the Board of Directors, responding to requests for information and reports as requested by the Commission, a Market Participant, or Interested Government Agency.

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10. As directed by the Board of Directors, responding to inquiries as requested by the Commission, a Market Participant, or Interested Government Agency
11. Attend SPP meetings as requested by the SPP Board of Directors or the SPP Compliance Committee.
12. Aid the SPP Market Monitor in other tasks mutually agreed to by the EMM and the Market Monitor.
13. Advise the SPP Board of Directors as requested by the Board of Directors.

RIGHTS AND OBLIGATIONS

1. The EMM shall be retained by and report to the SPP Board of Directors. All EMM activities must be communicated to and approved by the Board of Directors in a manner defined by the Board of Directors. The independence of the EMM is derived from the independence of the Board of Directors

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2. The EMM shall coordinate its activities with the Market Monitor including all communications with FERC Staff, state regulators, the Commission, and the RSC, and shall notify the Market Monitor of those communications prior to their taking place to the extent feasible. The EMM shall seek the advice of the Market Monitor where appropriate.
3. The EMM recognizes that it is a contractor of SPP and has a good faith duty to carry out the terms of this contract. SPP has a good faith duty to carry out the terms of this contract.
4. The EMM will submit draft reports to SPP for review prior to publication and give full consideration to SPP feedback on such drafts. However, SPP may not screen, alter, delete or delay the EMM's findings, conclusions and recommendations.
5. Any Market Participant or Interested Government Agency may raise any issue with the Market Monitor and request that the EMM consider the issue in its monitoring and reporting. With the permission of the Board of Directors (which shall not be unreasonably withheld), and in coordination with the Market Monitor, the EMM may include this issue in its monitoring or reporting if it determines it is appropriate to do so.
6. As a general principle, the EMM may obtain input from the Market Monitor, Market Working Group, FERC Staff, SPP Staff, SPP Regional State Committee, and any other SPP Organizational Group for the purpose of executing its duties so long as it coordinates with the Market Monitor as provided in this Agreement.
7. The EMM shall coordinate its reporting discussed above with the Market Monitor before submitting those reports. If the Market Monitor disagrees with the EMM, the EMM shall note that disagreement in the report.
8. The SPP Market Monitor shall coordinate its activities with the EMM including all communications with FERC Staff, state regulators, the Commission, and the RSC, and shall notify the EMM of those communications prior to their taking place to the extent feasible. The SPP Market Monitor shall seek the advice of the EMM where appropriate.
9. The EMM shall abide by the conflicts of interest and code of ethics policies contained in its EMM Services Agreement with SPP, which shall be appropriate for establishing the professional and financial independence of the EMM from all Market Participants.
10. The EMM will assure that any of its subcontractors abide by the conflicts of interest and code of ethics policies contained in its EMM Services Agreement with SPP.

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11. The EMM shall have access to all Data and Information gathered or generated by SPP in the course of its operations to the extent relevant to its tasks assigned by this Agreement.
12. SPP shall aid the EMM in obtaining the data relevant to its tasks from Market Participants as provided in the Tariff

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SCHEDULE 6A

Black Start Service

To ensure the reliable restoration following a shut down of the PJM transmission system, Black Start Service is necessary to facilitate the goal of complete system restoration. Black Start Service enables Transmission Provider and Transmission Owners to designate specific generators called Black Start Units whose location and capabilities are required to re-energize the transmission system following a system-wide blackout.

TRANSMISSION CUSTOMERS

1. All Transmission Customers and Network Customers must obtain Black Start Service from the Transmission Provider pursuant to this Schedule 6A.

PROVISION OF BLACK START SERVICE

2. A Black Start Unit is a generating unit that is able to start without an outside electrical supply or a generating unit with a high operating factor (subject to Transmission Provider concurrence) with the demonstrated ability to automatically remain operating, at reduced levels, when disconnected from the grid. A Black Start Unit shall be considered capable of providing Black Start Service when it meets the criteria set forth in the PJM manuals.
3. A Black Start Plant is a generating plant that includes one or more Black Start Units. A generating plant with Black Start Units electrically separated at different voltage levels will be considered multiple Black Start Plants.
4. Transmission Owners, in conjunction with the Transmission Provider, are responsible for identifying the Black Start Units that are included in each Transmission Owner's system restoration plans and are critical for restoration of the Transmission System. Black Start Units will be identified as critical pursuant to criteria set forth in the PJM manuals. No more than three Black Start Units at a Black Start Plant will be considered critical and eligible for compensation under this Schedule 6A, unless approved by the Transmission Provider as an exception. The Transmission Provider shall consider such exceptions on a case-by-case basis.
5. Owners of Black Start Units initially shall commit to providing Black Start Service for a two-year period. Black Start Unit owners and Transmission Owners that identify the Black Start Unit as critical may terminate this two-year commitment upon notice given one year before the date the commitment period ends.

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In the event that neither the Black Start Unit owner nor the Transmission Owner exercises its right to terminate by providing a one year notice of termination, the commitment to provide Black Start Service automatically will be extended for an additional year to maintain a rolling two-year commitment. In the event that a Black Start Unit fails to fulfill its two year rolling commitment to provide Black Start Service, receipt of any Black Start Service revenues associated with the non-performing Black Start Unit shall cease and, for the period of the unit's non-performance, the Black Start Unit owner shall forfeit the Black Start Service revenues associated with the non-performing Black Start Unit that it received or would have received had the Black Start Unit performed, not to exceed revenues for a maximum of one year.

6. Transmission Provider may terminate a Black Start Unit's designation as critical by providing two years prior notice of such termination.

Performance Standards and Outage Restrictions

7. Black Start Units must have the capabilities listed below. These capabilities must be demonstrated in accordance with the criteria set forth in the PJM manuals and will remain in effect for the duration of the commitment to provide Black Start Service.
 - a. A Black Start Unit must be able to close its output circuit breaker to a dead (de-energized) bus within 90 minutes of a request from the Transmission Owner or the Transmission Provider.
 - b. A Black Start Unit must be capable of maintaining frequency and voltage under varying load.
 - c. A Black Start Unit must be able to maintain rated output for a period of time identified by each Transmission Owner's system restoration requirements, in conjunction with the Transmission Provider.
8. Each owner of Black Start Units or Black Start Plants must maintain procedures for the start-up of the Black Start Units.
9. If a Black Start Unit is a generating unit with a high operating factor (subject to Transmission Provider concurrence) with the ability to automatically remain operating at reduced levels when disconnected from the grid, this ability must be demonstrated in accordance with the criteria set forth in the PJM manuals.
10. No more than one Black Start Unit at a Black Start Plant may be subject to planned maintenance at any one time. This restriction excludes outages on common plant equipment that may make all units unavailable. A Black Start Unit not currently designated as critical and on the same voltage level may be

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substituted for a Black Start Unit that is subject to a planned outage to permit a concurrent planned outage of another critical Black Start Unit at the Black Start Plant to begin. The Black Start Unit used as a substitute must have had a valid annual test within the previous 12 months.

11. Concurrent planned outages at multiple Black Start Plants within a zone may be restricted based on Transmission Owner requirements for Black Start Service availability. Such restrictions must be predefined and approved by Transmission Provider in accordance with the PJM manuals.

Testing

12. To verify that they can be started and operated without being connected to the Transmission System, Black Start Units designated as critical shall be tested annually in accordance with the PJM manuals. The Black Start Unit owner shall determine the time of the annual test.
13. Compensation for energy output delivered to the Transmission System during the annual test shall be provided for the Black Start Unit's minimum run time at the higher of the unit's cost-capped offer or real-time Locational Marginal Price plus start-up and no-load costs for up to two start attempts, if necessary. For Black Start Units that are generating units with a high operating factor (subject to Transmission Provider's concurrence) with the ability to automatically remain operating at reduced levels when disconnected from the grid, an opportunity cost will be provided to compensate the unit for lost revenues during testing.
14. To receive Black Start Service revenues, a Black Start Unit must have a successful annual test on record with Transmission Provider within the preceding 13 months. To receive initial Black Start Service revenues, within six months after the effective date of this Schedule 6A, each critical Black Start Unit must have had a successful annual test within the previous 13 months. In the event a Black Start Unit does not have a successful test at the end of the six-month period, the initial six months of revenues from Black Start Service will be forfeited and the unit will be ineligible to receive such revenue until the successful completion of an annual test.
15. If a Black Start Unit fails the annual test, the unit may be re-tested within a ten-day period without financial penalty. If the Black Start Unit does not successfully re-test within that ten-day period, monthly Black Start Service revenues will be forfeited by that unit from the time of the first unsuccessful test until such time as the unit passes an annual test. If the Black Start Unit owner determines not to make the necessary repairs to enable the Black Start Unit to pass the annual test, the Black Start Unit owner will have failed to fulfill its two-year commitment pursuant to paragraph 5 of this Schedule 6A and will be subject to the penalties set forth in that paragraph 5.

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Revenue Requirements

16. The annual Black Start Service revenue requirement shall be the sum of the annual Black Start Service revenue requirements for each generator that is designated as providing Black Start Service and has provided Transmission Provider with a calculation of its annual Black Start Service revenue requirements. A separate line item shall appear on participants' Transmission Provider bill for Black Start Service charges and credits.
17. Black Start Service revenue requirements shall be based on the formula set forth in paragraph 18 of this Schedule 6A. Each generator's Black Start Service revenue requirements shall be an annual calculation. Changes to the Black Start Service revenue requirements may be made annually, but will become effective in the second year of the generator's commitment to provide Black Start Service.
18. The formula for calculating a generator's annual Black Start Service revenue requirement is:

{(Fixed Black Start Service Costs) + (Variable Black Start Service Costs) + (Training Costs) + (Fuel Storage & Carrying Costs)} * (1 + Incentive Factor)

For units that have the demonstrated ability to operate at reduced levels when automatically disconnected from the grid, the formula is revised to:

(Training Costs) * (1+ Incentive Factor)

where:

Fixed Black Start Service Costs = CDR * 365 * Black Start Unit capacity * X

Where: CDR = PJM Capacity Deficiency Rate on an installed capacity basis

Unit Capacity = Black Start Unit's installed capacity

X = Black Start Service allocation factor (Hydro = 0.01, Diesel = 0.02, CT = 0.02) unless another value is supported by the documentation of costs

Variable Black Start Service Costs = Black Start Unit O&M * Y

Variable Black Start Service Costs are the variable O & M costs that can be attributed to supporting Black Start Service, to be calculated as follows:

where: Y = 0.01 unless another value is supported by the documentation of costs

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Note: If a value of Y is submitted for this cost, (1-Y) factor must be applied to the Black Start Unit's O&M costs on the unit's cost-based energy schedule.
Variable O&M costs associated with Black Start Service are equal to annual variable O&M as outlined in the Cost Development Task Force PJM manual.

Training Costs = 50 staff-hours/year/plant * \$75/hour

Fuel Storage & Carrying Costs (applicable only to oil-fired units) = (# Run Hours) * (Fuel Burn Rate) * (12 Month Forward Strip + Basis) * (Bond Rate)

where: Run Hours are the actual number of hours Transmission Provider requires a Black Start Unit to run. Run Hours shall be at least 16 hours or as defined by the Transmission Owner restoration plan, whichever is less.

Note: If no direct current pumps are available for the Black Start Unit, the fuel storage and carrying costs may include a tank minimum suction level.

Fuel burn rate is actual fuel burn rate for Black Start Unit.

12 Month Forward Strip is the average of forward prices for the fuel burned in the Black Start Unit.

Basis is the transportation costs from the location referenced in the forward price data to the Black Start Unit plus any variable taxes.

Bond rate will be the Moody's Utility Index for bonds rated Baa1.

Incentive Factor = Z = 10%

Where Z is an incentive factor initially set to the above level and will be periodically reviewed by Transmission Provider.

19. Transmission Provider or its agent shall have the right to independently audit the accounts and records of each Black Start Unit that is receiving payments for providing Black Start Service.

Credits

20. Monthly credits are provided to generators that submit to Transmission Provider their annual revenue requirements based on the formula in paragraph 18 of this Schedule 6A. The generator's monthly credit is equal to 1/12 of their annual Black Start Service revenue requirement for eligible critical Black Start Units.
21. Revenue requirements for jointly owned Black Start Units will be allocated to the owners based on ownership percentage.

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22. Transmission Provider shall not compensate generators for Black Start Service unless they meet the Transmission Provider and Applicable Regional Reliability Council criteria for Black Start Service and provide Transmission Provider with all necessary data in accordance with this Schedule 6A and the PJM manuals.

Charges

23. Zonal rates will be based on Black Start Service capability of generation units nominated by each transmission zone and allocated to network service customers and point-to-point reservations.
24. Revenue requirements for Black Start Units nominated by a Transmission Owner as critical (regardless of zonal location) will be allocated to the nominating Transmission Owner's zone.
25. Purchasers of Black Start Service shall be charged for such service in accordance with the following formulae.

Monthly Charge for a purchaser receiving Network Integration Transmission Service or Point-to-Point Transmission Service to serve Non-Zone Load = Allocation Factor * Total Generation Owner Monthly Black Start Service Revenue Requirement

Monthly Charge for a purchaser receiving Network Integration Transmission Service or Point-to-Point Transmission Service to serve Zone Load = Allocation Factor * Zonal Generation Owner Monthly Black Start Service Revenue Requirement * Adjustment Factor

Where:

Purchaser serving Non-Zone Load is a Network Customer serving Non-Zone Network Load or a Transmission Customer where the Point of Delivery is at the boundary of the PJM Region.

Zonal Generation Owner Monthly Black Start Service Revenue Requirement is the sum of the monthly Black Start Service revenue requirements for each generator nominated by the Transmission Owners in that zone.

Total Generation Owner Monthly Black Start Service Revenue Requirement is the sum of the Zonal Generation Owner Monthly Black Start Service Revenue Requirements for all Zones in the PJM Region.

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Allocation Factor is the monthly transmission use of each Network Customer or Transmission Customer per Zone or Non-Zone, as applicable, on a megawatt basis divided by the total transmission use in the Zone or in the PJM Region, as applicable, on a megawatt basis.

For Network Customers, monthly transmission use on a megawatt basis is the sum of a Network Customer's daily values of DCPZ or DCPNZ (as those terms are defined in Section 34.1) as applicable, for all days of the month.

For Transmission Customers, monthly transmission use on a megawatt basis is the sum of the Transmission Customer's hourly amounts of Reserved Capacity in the month (not curtailed by PJM) divided by 24.

Adjustment Factor is determined as the sum of the total monthly transmission use in the PJM Region on a megawatt basis, exclusive of such use by Network Customers and Transmission Customers serving Non-Zone Load, divided by the total monthly transmission use in the PJM Region on a megawatt basis.

In the event that a single customer is serving load in more than one Zone, or serving Non-Zone Load as well as load in one or more Zones, or is both a Network Customer and a Transmission Customer, the Monthly Charge for such a customer shall be the sum of the Monthly Charges determined by applying the appropriate formulae set forth in this Schedule 6A.

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MODULE D - MARKET MONITORING AND MITIGATION MEASURES

II. INTRODUCTION

The Market Monitoring and Mitigation Measures of this Module D include Part II, with further details in the IMM-BAA; the Independent Market Monitoring Plan; and Part III, the Market Mitigation Measures. The Plan is intended to provide for the independent, impartial and effective monitoring and reporting on the Energy Markets as a whole. The Market Mitigation Measures are intended to provide the means for the Transmission Provider to mitigate the market effects of any conduct that would distort competitive outcomes in the Energy Markets administered by the Transmission Provider.

III. INDEPENDENT MARKET MONITORING PLAN

50 Purpose and Objectives of the Plan

50.1 Purposes and Objectives

This Plan is intended to provide for the independent, impartial and effective monitoring of and reporting on: (i) the competitive performance and efficiency of the Transmission Provider's Energy Markets, including identification of opportunities to promote operational efficiency improvements;

(2) the conduct of Market Participants, Transmission Owners, Control Area Operators, and the Transmission Provider, including but not limited, to any exercise of or attempt to exercise, market power in any Energy Market or to inefficiently reduce the quantity or quality of Transmission Service in the region; (3) the operation, use, and congestion of the Transmission System as such system affects competitive conditions in the region; (4) the operation of the Control Area and actions taken by the Control Area Operators that unduly discriminate among the Market Participants or affect the competitiveness or economic efficiency of the Markets and Services; and (5) adequacy and effectiveness of any [REDACTED], market rule, procedure, or action that affects the competitiveness or economic efficiency of the Markets and Services.

The Plan will be implemented by an Independent Market Monitor (IMM) that shall report to the Transmission Provider's Board of Directors. The IMM shall report its findings to the FERC, State Regulatory Commissions, and the Transmission Provider. The IMM will provide annual reports to the Transmission Provider's Board of Directors, FERC, State Regulatory Commissions, and the Transmission Provider that will provide relevant market data and the results of analyses of that data undertaken by the IMM. In

addition, the IMM will conduct preliminary investigations of Market Participants' conduct as specified in this Plan, the results of which will be reported to Interested Government Agencies when further action may be warranted. The IMM will also respond to requests from FERC or State Regulatory Commissions for additional analysis or data the IMM has in its possession, subject to its obligation to protect the confidentiality of the data. The IMM also will respond to complaints by customers of the Transmission Provider and to requests for public data that are not readily available.

With regard to the IMM's monitoring of Control Area Operations, details regarding such monitoring are specified in the IMM-BAA.

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The Plan is intended to protect and foster competition, while minimizing interference with open and competitive markets. The IMM will recognize that conduct that might under some circumstances suggest an attempt to exercise market power is, under other circumstances, pro-competitive and efficient. In making this distinction, the IMM will generally focus on an analysis of the identified conduct and associated market impacts, rather than seeking to determine the intent of the participant (*e.g.*, conducting profitability analyses that would require comprehensive information on all the physical and financial positions of a participant). The IMM will work to ensure that all monitoring and reporting activities are implemented fairly and consistently in accordance with the Plan.

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50.2 Markets to be Monitored

The IMM will monitor the Markets and Services provided by the Transmission Provider, including the imbalance energy market, any congestion management market or system, any Ancillary Services market, any market for the purchase or sale of transmission rights, and any other market administered, coordinated or facilitated by the Transmission Provider. The IMM will not monitor bilateral Energy or Capacity markets, or private transmission rights not administered, coordinated or facilitated by the Transmission Provider, except to periodically assess the effect of these markets on the Energy Markets, or the effects of the Energy Markets on these markets.

50.3 Persons and Entities Subject to the Plan

The Transmission Provider, the IMM, the Control Area Operators, and any person or entity participating in any of the Energy Markets or that takes service under or is a party to any tariff or agreements listed on Attachment P to this Tariff, shall be subject to the terms, conditions and obligations of this Plan.

50.1 Independence of Market Monitoring

The IMM shall be granted complete independence to perform those activities necessary to provide impartial and effective market monitoring within the scope of the Plan. No person, party or agent, including the Transmission Provider, State Regulatory Commissions, or any other administrative oversight group responsible for the administration of the IMM activities, shall be granted authority to screen, alter, delete, or delay IMM investigations or the preparation of findings, conclusions, and recommendations developed by the IMM that fall within the scope of market monitoring responsibilities contained in the Plan.

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51 Market Monitoring Liaison

51.1 Establishment

The Transmission Provider's Board of Directors shall appoint a Market Monitoring Liaison Officer to carry out the functions described in this Section 51.

51.2 Responsibilities of the Market Monitoring Liaison Officer

- a.** The Market Monitoring Liaison Officer shall:
 - i.** Be responsible for administrative oversight of the contractual agreement with the IMM
(Attachment S-1 of this Tariff);
 - ii.** Support efforts of the IMM to collect necessary data and information from the Transmission Provider;

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- iii. Facilitate the provision of comments from the
Transmission Provider as appropriate on issues
investigated or analyzed by the IMM related to the
factual accuracy of the IMM's reports;
- b. The Market Monitoring Liaison Officer shall not:
 - i. ~~Have~~ authority to impose penalty charges;
 - ii. Screen, alter, delete, or delay IMM investigations or
the preparation of findings, conclusions, and
recommendations developed by the IMM; or
 - iii. Share or discuss confidential data, information, or
analysis related to any of the Markets and Services.

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Transmission System Operator, Inc.*, 110 FERC ¶ 61,289 (2005)).

52 Independent Market Monitor

52.1 Retention of the Independent Market Monitor

The Transmission Provider shall retain a person or persons, consulting firm or other entity to be known as the Independent Market Monitor that shall report to the Transmission Provider's Board of Directors. The IMM shall have experience and expertise appropriate to the analysis of competitive conditions in markets for Energy, Ancillary Services, and transmission rights, and to such other responsibilities as are assigned to the IMM under this Plan. The IMM shall interface with the Market Monitoring Liaison Officer.

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5.2 Conflicts of Interest

The Market Monitoring Liaison Officer shall adopt a policy on conflicts of interest for the IMM establishing appropriate standards for the professional and financial independence of the IMM. In addition, the IMM shall adopt ethics policies and standards for its employees and subcontractors. The IMM, including each member, employee, or subcontractor of the IMM, shall comply at all times with the conflicts of interest and ethics policies, and shall certify such compliance to the Market Monitoring Liaison Officer upon request.

5.3 Responsibilities of the IMM

- a.** The IMM shall:
 - i.** Advise the Transmission Provider, and shall prepare the reports specified herein, on the nature and extent of, and any impediments to, competition in and the economic efficiency of the Markets and Services, and shall submit such reports to FERC, to the affected State Regulatory Commissions, and to each CEO of a Market Participant for which the IMM has made findings directly related to that Market Participant's company;

- ii. Assist in the development of this Plan, including the screens and indices described in Section 55 of the Plan;
- iii. Recommend to the Transmission Provider modifications to market rules, tariffs, or other corrective actions to improve the competitiveness or efficiency of the Markets and Services;
- iv. Recommend to the Transmission Provider modifications to market rules or tariffs to improve the compatibility of, and the efficiency of trading between, the Transmission Provider and neighboring RTOs or Control Areas; and
- v. ~~Have~~ Have such other duties and responsibilities as specified in this Plan, as it may be amended from time to time.

- b. The IMM may, at any time, bring any matter to the attention of the Transmission Provider, Interested Government Agencies, or appropriate federal or state antitrust enforcement agencies as the IMM may deem necessary or appropriate for achieving the purposes, objectives and effective implementation of this Plan. The IMM shall also notify the FERC Office of Enforcement, Office of [REDACTED] Markets [REDACTED], the Commission General Counsel's Office, or other successor organization(s), and the affected State Regulatory Commissions immediately in the event the IMM identifies a significant market problem or a potential violation of the Transmission Provider's [REDACTED] [REDACTED] Market Rules, or the FERC Market Rules that may require (i) further investigation; (ii) a change in the Transmission Provider's Tariff or Market Rules; or (iii) action by the FERC and/or one or more State Regulatory Commissions. The IMM shall not have the authority to impose penalty charges.

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53 Monitoring Implementation and Responsibilities

53.1 Conditions, Functions or Actions Monitored

The IMM will achieve the purposes and objectives of this Plan through review and analysis of conditions, functions or actions affecting the competitiveness, economic efficiency and proper operation of the Markets and Services, including but not limited to, the following to the extent each may be deemed relevant to the purposes and objectives of this Plan by the IMM:

- a. The schedules and Offers submitted for and actual dispatch of Generation Resources in or affecting any of the Markets and Services, including, but not limited to, Offers resulting in any Revenue Sufficiency Guarantee payments, Price Volatility Make-Whole Payments, and other similar payments, including but not limited to, Offers resulting in any Revenue Sufficiency Guarantee payments, Price Volatility Make-Whole Payments, and other similar payments [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- b.** The provision of Transmission Services and rights by the Transmission Provider, including but not limited to estimating and posting of Available Transfer Capability (ATC), administration of the Tariff, the operation and maintenance of the Transmission System, the auctions and other markets for transmission rights, and the reservation and scheduling of Transmission Service;
- c.** Other information relating to collusive or other anticompetitive or inefficient behavior in or affecting any of the Markets and Services;

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- d. Competitive or other market impacts of tariffs and agreements, or other rules, standards or procedures, or any other Transmission Provider or Market Participant actions governing or affecting any of the Markets and Services;
- e. The nature and extent, causes of, and costs of and charges for transmission congestion in the Transmission Provider Region or, to the extent practicable, transmission congestion on any other system that affects any of the Markets and Services;
- f. The need for and efficacy of appropriate penalty charges or other corrective actions to be submitted to and approved by FERC to address: a) competitive problems, b) violations or failures to comply with any tariff or services agreement that have material effects on the Markets and Services, or c) market flaws;

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[RESERVED FOR FUTURE USE]

53.3 Referral of Anti-Competitive Behavior and Rules Violations to the Commission

- a.** In cases requiring IMM referral to FERC as otherwise called for in this Section, or in any other case in which the IMM has reason to believe, based upon sufficient credible information, that a Market Participant, the Transmission Provider, or Control Area Operator have (1) violated the Transmission Provider's Tariff or other FERC-approved Transmission Provider Market Rules, or (2) violated FERC Market Rules, the IMM will refer the matter to the Commission, addressed to the Commission's Office of Enforcement, Office of [REDACTED] Markets and [REDACTED].

the Commission General Counsel's Office, or other successor organization(s), in a manner described in Section 53.3.b. The foregoing notwithstanding, a clear, objectively identifiable violation of the Transmission Provider's Market Rules, where such rules provide for an explicit remedy that has been accepted by the Commission and can be administered by the Transmission Provider, shall not be subject to the provisions for referral under this Section 53.3.

- b. An IMM referral under this section to the Commission shall be in writing, non-public, and should include, but is not limited to, the following information:
 - i. The name(s) of and, if possible, the contact information for, the Market Participants that allegedly took action(s) that constituted the alleged violation(s);
 - ii. The date(s) or time period during which the alleged violation(s) occurred and whether the alleged wrongful conduct is ongoing;
 - iii. The specific FERC Market Rule(s) and/or the Tariff provision(s) that were allegedly violated;

- iv. The specific act(s) or conduct that allegedly violated the FERC Market Rules or the Tariff
 - v. The consequences in Markets and Services resulting from the act(s) or conduct, including, if known, an estimate of the economic impact on the Energy Market;
 - vi. If the IMM believes that the act(s) or conduct constituted manipulative behavior in violation of FERC Market Rules, a description of the alleged manipulative effect on market prices, market conditions, or Transmission Provider's Market Rules; and any other information that the IMM believes is relevant and may be helpful to the Commission.
- c. Following the submission of such a referral, the IMM will continue to inform the Commission of any information relating to the referral that it discovers within the scope of its regular monitoring function, as described in this Module D, but it shall not undertake any investigative steps regarding the referral except at the express direction of the Commission.

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Issued on: June 25, 2007

Effective: April 10, 2007

Filed to comply with *Midwest Independent Transmission Operator, Inc.* 119 FERC ¶ 61,196 (2007).

- e. Schedules from holders of expanded congestion cost hedges will be referred to the Commission using procedures as provided for in Section 53.3.b of this Tariff when they schedule transactions associated with the expanded congestion cost hedges that: a) are uneconomic at the prevailing Day-Ahead Energy Market prices, b) exceed in aggregate the total physical import capability into the NCA, or c) exceed the quantity of economic imports needed to serve the Load of the Market Participant. The last category of conduct shall be defined as instances when the day-ahead scheduled import is greater than one hundred ten percent (110%) of the actual Load minus the Market Participant's economic generation inside the NCA (the 10% threshold). Each Market Participant that is a holder of an expanded congestion cost hedge shall provide data to the IMM every month identifying hourly real-time physical scheduled quantities or Metered real-time injections associated with Generation Resources owned or contracted by such Market Participant on the source side of the expanded congestion cost hedge, and identifying hourly Metered real-time Load on the sink side of the expanded congestion cost hedge.

The IMM shall examine such data and shall compare:

1) reported real-time Metered injections with those specified in day-ahead schedules; and 2) real-time Metered Load with scheduled day-ahead Load, in each case to determine whether any deviations between day-ahead and real-time data exceed the 10% threshold. If any such deviations exist, the IMM shall further examine whether any schedule changes on the sink side of the expanded congestion hedge are consistent with the physical use of the Transmission System to support serving Load by the Market Participant under the expanded congestion cost hedge. The IMM shall verify with the Transmission Provider the accuracy of data submitted by Market Participant holders of expanded congestion cost hedges. The Transmission Provider shall report to the Commission every quarter any findings of inefficient scheduling by holders of expanded congestion cost hedges beyond the 10% threshold.

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54 Data Collection and Disclosure

54.1 Access to Transmission Provider's Data and Information

For purposes of carrying out its responsibilities under this Plan, the IMM shall have access to data or other information gathered or generated by the Transmission Provider in the course of its operations. This data and information shall include, but not be limited to,

- a.** Hourly schedules, Offers, and actual output for the Generation Resources within the Transmission Provider Region (including designated Network Resources outside the Transmission Provider Region) and external Imports to and Exports from the Transmission Provider Region;

- b.** Reserved and scheduled Transmission Service into, out of, or through the Transmission System;
- c.** Transmission limits (including temporary deratings) on each of the monitored flowgates or other relevant transmission facilities;
- d.** Hourly flow over each of the monitored flowgates or other relevant transmission facilities;
- e.** Dispatch of generation for Energy, Regulation, and frequency or other operational orders, including Transmission Provider or other information pertaining to such dispatch;
- f.** Redispatch of generation or other actions taken to manage transmission congestion;
- g.** Logs of Transmission Service requests, including the disposition of the request and the explanation for any refused, retracted or annulled requests;

- h.** Logs of generator interconnection requests, including the disposition of the request and the explanation of any refused requests;
- i.** Generation and transmission facility outage data;
- j.** Records of complaints by customers of the Transmission Provider; and

- k. Other information required to be provided to the
Transmission Provider under the Transmission Provider's
Tariff, operating agreements, Regional Reliability
Organization requirements, or government agency orders.

54.2 Data from Market Participants

54.2.1 Data Requests

If the IMM determines that additional data or other information is required to accomplish the objectives of the Plan, the IMM may request the persons or entities possessing, having access to, or having the ability to generate or produce such data or other information to furnish it to the IMM. Any such request shall be accompanied by an explanation of the need for such data or other information, a specification of the form or format in which the data is to be produced, and an acknowledgment of the obligation of the IMM to maintain the confidentiality of the data.

54.2.2 Enforcement of Data Requests

- a.** A party receiving an information request from the IMM shall furnish all information, in the requested form or format, that is: (i) included in the categories of data or information that it may request from a Market Participant to support an active investigation, as specified in Section 61; or (ii) reasonably necessary to achieve the purposes or objectives of this Plan, not readily available from some other source that is more convenient, less burdensome and less expensive, and not subject to a legal privilege.

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- b.** The categories of data or information specified in Section 61 that may be routinely requested shall be limited to data or information the routine provision of which would not be unduly burdensome or unduly expensive, and which has been reasonably determined by the IMM to be relevant to the purposes and objectives of this Plan. No party that is the subject of a data request shall be required to produce any summaries, analyses, or reports of the data that do not exist at the time of the data request. The IMM shall notify the Market Participants and other interested parties, and provide an opportunity for comment, prior to adding or deleting any categories of data or information to or from Section 61.

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- c. A party receiving a request for data or information, consistent with Section 61, shall promptly provide it to the IMM, and may not contest the right of the IMM to obtain such data or information except to the extent that the Party has a good faith basis to assert that the data or information is not included in any of the categories on the list. If the IMM determines that the requested information has not or will not be provided within a reasonable time, the IMM may invoke the Transmission Provider's dispute resolution provisions set forth in Section 12 of this Tariff.
- d. The Party from whom the information has been requested may invoke the Transmission Provider's dispute resolution provisions, if applicable, to determine the IMM's right to obtain requested information not contained on the foregoing list.

- e. The Parties may submit any such determination to binding arbitration, or other form of binding resolution, and shall seek expedited resolution, in accordance with the applicable dispute resolution procedures.
- Alternatively, any such Party may contest the request with the FERC. If the entity from whom the data or other information has been requested is not subject to either of the foregoing dispute resolution procedures and does not voluntarily agree to the use of either or a comparable dispute resolution procedure, or has not contested the request with the FERC, the Transmission Provider or the IMM may initiate such judicial or regulatory proceedings to compel the production of the requested information as may be available and deemed appropriate by the IMM.

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54.3 Access to Data by Interested Government Agencies

- a. Notwithstanding any provisions to the contrary, if the Commission or its staff, during the course of an investigation or otherwise, requests information from the IMM that is otherwise required to be maintained in confidence pursuant to this Tariff, the IMM shall provide the requested information to the Commission or its staff, within the time provided for in the request for information. Should the IMM require additional time to provide the information requested due to logistical matters such as the volume of information requested or technical complexity involved, the IMM will promptly communicate that need to the individual requesting the information and they shall establish the time for production of the requested information. In providing the information to the

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Commission, or its staff, the IMM shall, consistent with 18 C.F.R. §88.112, request that the information be treated as confidential and non-public by the Commission and its staff and that the information be withheld from public disclosure. The IMM shall promptly notify the entity that provided the requested information when it is notified by the Commission or its staff, that a request for disclosure of, or decision to disclose, Confidential Information has been received.

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Filed to comply with the Commission's June 21, 2005 Order, *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,448 (2005) and August 6, 2004 Order, *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (2004), *order on reh'g*, 109 FERC ¶ 61,157 (2004), *order on reh'g*, 111 FERC ¶ 61,043 (2005).

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54.4Confidentiality

The IMM shall use all reasonable procedures necessary to protect and preserve the confidentiality of all Confidential Information obtained in connection with the implementation of this Plan.

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Except as may be required by subpoena or other compulsory process, the IMM shall not disclose Confidential Information to any person or entity without prior written consent of the affected parties, provided, however, that third parties requesting disclosure of information designated as Confidential Information” may challenge the designation pursuant to procedures specified in the Business Practices Manuals. Upon receipt of a subpoena or other compulsory process for the disclosure of Confidential Information, the IMM shall promptly notify the party that provided the data and shall provide all reasonable assistance requested by the party to prevent disclosure, and if possible under the terms of the subpoena or other compulsory process shall not release the data until the party provides written consent or until the party’s legal avenues are exhausted. The confidentiality of data and information provided to Interested Government Agencies will be maintained with a protective order or other procedures of the agency for protecting confidential data.

54.5 Collection and Retention of Information:

- a. The IMM shall regularly collect and maintain the information necessary for implementing this Plan. The IMM, in conformity with the Transmission Provider’s applicable data retention policies, shall adopt schedules for the periodic destruction of information in the possession of the IMM the retention of which is no longer reasonably necessary for purposes of this Plan.

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The IMM or Transmission Provider shall ensure that data and information necessary for use by any subsequent IMM shall be retained in usable form.

- b. The IMM shall adopt policies and requirements for the retention of information by Market Participants, and submission of such information to the IMM as necessary for the implementation of this Plan, after providing an opportunity for interested parties and the Market Monitoring Liaison Officer to review and comment on such procedures.

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55 Performance Indices and Screens

55.1 Development of Indices and Screens

The IMM, with due consideration of the proposals and comments of Market Participants and other interested parties submitted as specified below, and subject to review and comment by the Transmission Provider, shall develop and adopt such indices or other screens for reviewing the data or other information as the IMM deems appropriate.

55.2 Consultation with Market Participants

In connection with the development of indices and screens as specified in Section 55.1, Market Participants, Interested Government Agencies, or other interested parties may submit proposed indices or screens for review of the data or other information collected in connection with the implementation of this Plan, along with any justification for the adoption thereof, to the IMM for consideration and adoption if and to the extent appropriate. The IMM shall provide Market Participants, Interested Government Agencies, and other interested parties the opportunity to comment on any new indices and screens prior to their adoption.

55.3 Use of Indices and Screens

To the extent practicable, the IMM shall review data or other information collected in connection with implementation of this Plan in accordance with the indices or screens adopted as specified above; provided, however, that nothing herein shall be deemed to prevent the IMM from conducting such further or different review or evaluation of such data or information as appropriate for the effective implementation of this Plan.

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56 Complaints and Requests for Investigations

56.1 Requests from Interested Government Agencies

Any Interested Government Agency may, at any time, submit information to the IMM concerning any matter relevant to the responsibilities of the IMM under the Plan, or may submit a request to the IMM for it to conduct an investigation. Such submissions or requests may be made on a confidential basis. Acting in a timely manner, the IMM shall carry out the requested investigation to the extent deemed reasonably necessary by the IMM. Subject to redaction or other measures necessary for the protection of Confidential Information, the IMM shall report the results of these investigations to the Transmission Provider, the agency requesting the investigation, and as appropriate to the FERC and other Interested Government Agencies.

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56.2 Requests from Others

Any Market Participant or other interested person or entity may at any time submit information to the IMM concerning any matter relevant to the responsibilities of the IMM under the Plan, or may submit a request to the IMM for it to conduct an investigation. Such submissions or requests may be made on a confidential basis. The IMM may request further relevant information available from such Market Participant or other person or entity as a condition of undertaking any further investigation. Acting in a timely manner, the IMM shall, in its independent judgment, decide whether to undertake an investigation, in the manner that it deems appropriate, or decline to do so.

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Reporting of Complaints and Requests

The IMM shall include a summary of its actions or decisions not to act in its annual report as well as in any other periodic or other reports on any matters within its purview as may be requested by the Transmission Provider's Board of Directors or any of the Interested Government Agencies.

Reports

Periodic Reports

The IMM shall prepare and submit to the Transmission Provider's Board of Directors a report on the competitive performance and efficiency of the Markets and Services. Such report shall be submitted at least annually and include any recommendations of the IMM for the improvement of the Markets and Services, or of the monitoring, reporting and other functions undertaken pursuant to this Plan.

The report shall also include a description of all requests for investigation/complaints and the resolution or disposition thereof. A copy of the report shall be forwarded by the IMM to each of the Interested Government Agencies. Copies of the report shall be made publicly available by the Transmission Provider, subject to redaction or other measures necessary for the protection of Protected Information.

56.3 Other Reports or Filings

The IMM shall prepare such other periodic or other reports on any matters within its purview as may be requested by the Transmission Provider's Board of Directors or any of the Interested Government Agencies. The IMM shall also prepare other reports that it deems necessary. Unless the Board of Directors or the Interested Government Agency requesting such report specifies to

the contrary, copies of such reports shall be made publicly available by the Transmission Provider, subject to redaction or other measures necessary for the protection of Confidential Information. All reasonable fees and expenses for the preparation of reports or other filings relating to the Markets and Services that are requested by an Interested Government Agency from the incumbent IMM, or from a former IMM with respect to conditions or conduct occurring in the period during which the entity receiving the request served as the IMM, shall be borne by the Transmission Provider.

56.4 Transmission Provider Response to Reports

The Transmission Provider shall provide a final response to any report by the IMM per Sections 57.1 and 57.2 that include recommendations for action by the Transmission Provider. The response shall be made no later than forty-five (45) days from the date of the IMM report and the statement shall clearly identify the Transmission Provider's agreement or disagreement with each recommendation. The Transmission Provider's response will be given the same distribution as the IMM report.

57 Liability

The liability of the Transmission Provider, and its directors, officers, employees and agents, and of the IMM, and its directors, officers, employees and agents, for any matter arising under or relating to this Plan shall be governed by this Section. The Transmission Provider, and its directors, officers, employees and agents, and the IMM, and its directors, officers, employees and agents, shall not be liable to any person or entity for any matter, act or omission described in or contemplated by this Plan, as the same may be amended or supplemented from time to time, including but not limited to liability for any financial loss, loss of economic advantage, opportunity cost, or actual, direct, indirect or consequential damages of any kind resulting from or attributable to any act or omission of the Transmission Provider or the IMM under this Plan unless the foregoing persons or organizations are found to have engaged in gross negligence or willful misconduct by a court of competent jurisdiction.

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The Transmission Provider shall indemnify and hold harmless its directors, officers, employees and agents and the IMM, its directors, officers, employees and agents, of and from any and all actions, claims, demands, costs (including any form of damages or other economic loss and all court costs and reasonable attorneys' fees) and liabilities to third parties, arising from or in any way connected with, the implementation or a failure to implement this Plan, except to the extent that such action, claim, demand, cost or liability results from the gross negligence or willful misconduct of any of the foregoing persons.

58 Rights and Remedies

- a. With the exception of the limitation of liability specified in Section 58 of this Plan, nothing herein shall prevent the Transmission Provider or any other person or entity from asserting any rights it may have under the Federal Power Act or any other applicable law, statute, or regulation, including the filing of a petition with or otherwise initiating a proceeding before the FERC regarding any matter which is the subject of this Plan.

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- b. Except as and to the extent otherwise specified in this Plan, including the provisions of Section 59.a, disputes as to the implementation of or compliance with this Plan shall be subject to the Transmission Provider's dispute resolution procedures contained in Section 12 of this Tariff.

60 [RESERVED]

61 List of Data the IMM May Request from Market Participants

61.1 Data

The following data or information may be obtained by the IMM from Market Participants, Transmission Owners, or the Transmission Provider in accordance with Section 54.2 of the Plan. Market Participants, Transmission Owners, or the Transmission Provider shall retain the following categories of data or information for at least two years, beginning with the date of initial operation.

- a. Production costs: Data or information relating to the costs of operating a specified Electric Facility (for Generation Resources such data or information shall include, heat rates, start-up fuel requirements, fuel purchase costs, environmental costs, and operating and maintenance expenses).
- b. Opportunity costs: Data or information relating to regulatory, environmental, technical, or other restrictions that limit the run-time or other operating characteristics of a Generation Resource.
- c. Generating Logs: Data or information relating to the operating status of a generating facility, including generator logs showing the generating status of a specified unit. Such data or information shall include any information relating to a forced outage or derating of a Generation Resource.

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- d. Transmission Logs:** Data or information relating to the operating status of a transmission facility, a contingency, or other operating consideration. This shall include data or information related to any Generation Resources called out-of-merit or dispatched under any other operating order from the Transmission Provider

- e. Bidding Agreements: Data or information relating to the ability of a Market Participant or its Affiliate to determine the pricing or output level of generating capacity owned by another entity, including but not limited to any document setting forth the terms or conditions of such ability.

III. MARKET MITIGATION MEASURES

62 Purpose and Objectives

- a. These market power Mitigation Measures are intended to provide the means for the Transmission Provider to mitigate the market effects of any conduct that would substantially distort competitive outcomes in the Energy Markets or other markets administered by the Transmission Provider, while avoiding unnecessary interference with competitive price signals.

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- b. These Mitigation Measures are intended to minimize interference with open and competitive markets. To that end, the Mitigation Measures authorize the mitigation of specific conduct only when the conduct exceeds well-defined conduct thresholds *and* when the effect on market outcomes of the conduct exceeds well-defined market impact thresholds. Using these thresholds, the Mitigation Measures are designed to allow prices to rise efficiently to reflect legitimate supply shortages while effectively mitigating inflated prices associated with artificial supply shortages in transmission constrained areas resulting from physical or economic withholding.

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- c. In addition, the IMM shall monitor the Markets and Services administered by the Transmission Provider for conduct that may distort competitive market outcomes, but does not trigger the thresholds specified below for the imposition of Mitigation Measures. If the IMM identifies any such conduct, the Transmission Provider shall make a filing under §205 of the Federal Power Act, 16 U.S.C. §24d (1999) (205) with the Commission requesting authorization to apply appropriate Mitigation Measures. Any such filing shall identify the particular conduct the IMM believes warrants mitigation, shall propose a specific Mitigation Measure for the conduct, and shall set forth the justification for that Mitigation Measure.

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- d. The IMM shall monitor the actions of the Transmission Provider to identify any actions that substantially distort competitive outcomes in the Energy Markets or any other market administered by the Transmission Provider. If such actions are identified, the IMM shall recommend changes in these actions and, as necessary, to Transmission Provider's market rules or procedures.

63 Conduct Warranting Mitigation

63.1 Conduct Subject to Mitigation: Mitigation Measures may be applied:

- (i) to the Offers, scheduling or operation of an Electric Facility; or (ii) as specified in Section 65.3.

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63.2 Conditions for the Imposition of Mitigation Measures

- a.** To achieve the foregoing purpose and objectives, the IMM shall impose Mitigation Measures to remedy conduct that:
 - i.** is significantly inconsistent with competitive conduct, as set forth in Section 64.1; and
 - ii.** would result in a substantial change in one (1) or more prices in an Energy Market or any other market administered by the Transmission Provider, or Offer Revenue Sufficiency Guarantee Payment, as set forth in Section 64.2.

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- b. The categories of conduct that are inconsistent with competitive conduct include the categories of conduct specified in Section 63.3 below. In general, the IMM shall consider a Market Participants conduct for a given Electric Facility to be inconsistent with competitive conduct if the conduct would (i) reduce the net revenue associated with the Electric Facility, but for the effect of the conduct on market outcomes, or (ii) inefficiently reduce the capability of the Transmission System. The Mitigation Measures will only apply in the presence of a Binding Transmission Constraint. Binding Transmission Constraints shall include constraints in adjacent areas that are monitored by the Transmission Provider and affect the dispatch or commitment of Electric Facilities in the Transmission Provider Region.

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63.3 Categories of Conduct that May Warrant Mitigation

- a. The following categories of conduct, whether by a single firm or by multiple firms, may warrant mitigation:
 - i. *Physical withholding of an Electric Facility*, that is, not offering to sell or schedule the output of or services provided by an Electric Facility capable of serving an Energy Market or any other market administered by Transmission Provider. Such withholding may include, (i) declaring that an Electric Facility has been derated, forced out of service or otherwise become unavailable for technical reasons that are not true or cannot be verified, (ii) refusing to provide Offers or schedules for an Electric Facility, (iii) operating a Generation Resource in real time to

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produce an output level that is less than Dispatch Instructions, or (iv) derating a transmission facility or interface for technical reasons that are not true or verifiable; or (v) operating a transmission facility in a manner that is not economic and causes a Binding Transmission Constraint. Market Participants will not be deemed to be physically withholding an Electric Facility when they are following the directions of Control Area Operators, NERC or the Transmission Provider.

- ii. *Economic withholding of a Generation Resource*, that is, submitting Offers for a Generation Resource that violate the economic withholding criteria set forth in Section 64.1.2 that cannot be justified, so that (i) output from the Generation Resource is not or will not be dispatched or scheduled, or (ii) the Offers will clear at prices significantly above competitive levels.

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- iii. *Uneconomic production from a Generation Resource*, that is, increasing the output of a Generation Resource to levels that would otherwise be uneconomic and causes a Binding Transmission Constraint.
- iv. *Uneconomic Market Participant Bids or Virtual Transactions*, that is, submitting an Offer in the Day-Ahead Energy Market that is not economically justified based on risk management or other economic considerations, and that causes substantial divergence between prices in the Day-Ahead and Real-Time Energy Markets, as defined in Sections 65.4.2.d and 65.5.2.c.

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- b.** Taking advantage of opportunities to sell at a higher price in a market other than an Energy Market or any other market administered by the Transmission Provider shall not be deemed a form of withholding or otherwise inconsistent with competitive conduct.
- c.** The IMM shall monitor Markets and Services for other categories of conduct, whether by a single firm or by multiple firms, that substantially distort competitive outcomes in an Energy Market or any other market administered by the Transmission Provider. The IMM shall: (i) seek to amend the foregoing list as may be appropriate to include any such conduct that would substantially distort or impair the competitiveness of any of the Energy Markets or any other markets administered by the Transmission Provider; and (ii) seek such other authorization to mitigate the effects of such conduct from the FERC as may be appropriate.
- d.** Notwithstanding anything to the contrary, any modification to the list of conduct in Section 63.3.3.a that may warrant mitigation, whether recommended by the IMM or derived from another source, is to be filed by the Transmission Provider with the Commission for approval.

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63.4 Defining Transmission Constrained Areas

As described above, the Mitigation Measures are intended to mitigate locational market power resulting from transmission congestion. Locational market power can occur in Narrow Constrained Areas or Broad Constrained Areas.

63.4.1 Determination of Narrow Constrained Areas

- a. On a yearly basis, or more frequently as the IMM deems necessary, the IMM will evaluate the patterns of congestion in the Transmission Provider Region to determine the constrained areas that should be identified as Narrow Constrained Areas in accordance with the following procedures.

- b. A Narrow Constrained Area is an electrical area identified by the IMM that is defined by one or more Binding Transmission Constraints that are expected to be binding for at least five hundred (500) hours during a given twelve (12)-month period and within which one (1) or more suppliers are pivotal.
- c. A supplier is pivotal when the output of some of its Generation Resources must be increased or decreased to resolve the transmission constraint during some or all hours when the constraint is binding. This will be determined utilizing transmission load flow cases reflecting a variety of market conditions.

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- d. These load flow cases will be used to estimate: (i) the Generation Shift Factors for all Transmission Provider and relevant non-Transmission Provider Generation Resources relative to each potentially constrained flowgate; (ii) the base loadings of Generation Resources; and (iii) the base flows on each flowgate. A supplier is pivotal when a Binding Transmission Constraint cannot be relieved without changing the base loadings for other suppliers' Generation Resources.
- e. Once the initial Narrow Constrained Areas are defined, the IMM may remove an area's designation as a Narrow Constrained Area if the IMM determines that the transmission constraints that define the Narrow Constrained Area are expected to be binding for fewer than five hundred (500) hours during a given twelve (12)-month period.

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- f. The IMM will seek comment from the Transmission Provider's Market Participants before altering or removing the designations of any area as a Narrow Constrained Area. Subject to any applicable confidentiality requirements, the IMM will provide any interested Market Participants with a description of its supporting analysis to allow comment on proposed designation changes.
- g. The Transmission Provider must obtain the prior approval of the Commission for the designation of any new area as a Narrow Constrained Area, and for any change or removal of such a designation. The Transmission Provider shall submit to the Commission the analysis supporting any such change.

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- h.** To ensure the Narrow Constrained Area designations are available to Market Participants, the Narrow Constrained Area designations and the associated thresholds set forth in Section 64.1.2 will be posted on the Transmission Provider's website.

63.4.2 Broad Constrained Areas

- a.** A Broad Constrained Area is an electrical area in which sufficient competition usually exists even when one or more transmission constraints are binding, or into which the transmission constraints bind infrequently, but within which a transmission constraint can result in substantial locational market power under certain market or operating conditions.
- b.** Broad Constrained Areas will not be identified in advance by the IMM, but will be monitored for and mitigated when appropriate, utilizing the thresholds in Section 64.1 and Section 64.2.

- c. All units that significantly affect the flow over the constrained flowgate would be tested to determine whether mitigation is warranted. A Generation Resource will be deemed to have a significant effect on the flowgate if the absolute value of its Generation Shift Factor is greater than the Constraint Generation Shift Factor Cutoff.
- d. The Constraint Generation Shift Factor Cutoff will be specified by the IMM to identify Generation Resources that will be included in a BCA. A default level of six percent (6%) will be used as the Constraint GSF Cutoff for all flowgates, except for those flowgates for which the Commission has approved a different Constraint GSF Cutoff level.

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- e. The IMM will make all Constraint Shift Factor Cutoffs, and current and prior active BCAs, including associated flowgates, available to the Market Participants by posting them on the Transmission Provider website.
- f. To assist the owner of a Generation Resource in understanding whether its unit may be located within a Broad Constrained Area for a given flowgate, the IMM will post a representative set of Generation Shift Factors for the Generation Resources in the Transmission Provider Region.

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64 Criteria for Imposing Mitigation Measures

64.1 Conduct that may potentially warrant the imposition of a Mitigation Measure includes the categories described in Section 63.3.a above, which shall be detected through the use of indices and screens developed by the IMM and made available as specified in the Plan. The thresholds listed in Sections 64.1.1 to 64.1.3 below shall be used to identify conduct that may warrant mitigation.

64.1.1 Thresholds for Identifying Physical Withholding

- a.** Except as specified in subsection (e) below, the following initial thresholds will be employed by the IMM to identify physical withholding of a Generation Resource:

- i. Withholding more than the lower of 5 percent or 200 MW of the total capability owned or controlled by a Market Participant and its Affiliates; or
 - ii. Operating a unit in real-time at an output level that is less than 90 percent of the Transmission Provider's Dispatch Instructions for the unit.
- b. The amounts of generating Capacity considered withheld for purposes of applying the foregoing thresholds shall include deratings or outages of generating Capacity that is economic and is physically capable of operating, and any portions of a Generation Resource's available output that is not scheduled, Offered or is economically withheld under the thresholds in Section 64.1.2.
- c. The foregoing thresholds are intended to ensure that mitigation only be applied to significant instances of locational market power resulting from one (1) or more Binding Transmission Constraints associated with a Broad Constrained Area.

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- d. A transmission facility shall be deemed physically withheld if: (a) it is scheduled out of service for technical reasons that are not true or cannot be verified, (b) due to the actions of Transmission Operators, the IMM has identified a pattern of scheduling outages resulting in increased market costs compared to an alternative and lower cost impact outage schedule. If such actions are identified, the IMM shall report such findings to the Commission and the Transmission Provider within thirty (30) days, or (c) it is not operated in accordance with Transmission Provider's Dispatch Instructions and such failure to conform to Transmission Provider's Dispatch Instructions causes a Binding Transmission Constraint. A transmission facility shall not be deemed withheld if it is subject to a forced outage or is out of service for maintenance in accordance with a maintenance schedule approved by the Transmission Provider.

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- e. The minimum quantity thresholds in Section 64.1.1.a shall apply to the identification of physical withholding by a Generation Resource in a Broad Constrained Area. With respect to a Narrow Constrained Area, the identification of physical withholding by a Generation Resource shall be made when such Generation Resource engages in any of the activities described in Section 64.1.1.a, without regard to any minimum quantity of that activity.

64.1.2 Thresholds for Identifying Economic Withholding

- a. The following thresholds shall be employed by the IMM to identify economic withholding that may warrant the mitigation of a unit in a Broad Constrained Area and shall be determined with respect to a Reference Level determined as specified in Section 64.1.4

- i. Energy and minimum generation Offers: A three hundred percent (300%) increase or a \$00 per MWh increase, whichever is lower; provided, however, that Energy or minimum generation Offers (*i.e.*, No-Load Offers plus Energy Offers up to the Hourly Economic Minimum Level) below \$5 per MWh shall be deemed not to constitute economic withholding.
- ii. Start-up Offers: A two hundred percent (200%) increase.

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- iii. Time-based Offer parameters: An increase of three (3) hours, or an increase of six (6) hours in total for multiple time-based Offer parameters. Time-based Offer parameters include, but are not limited to, Start-Up Times, Minimum Run Times and Minimum Down Times.
- iv. Offer parameters expressed in units other than time or dollars: A 100 percent (100%) increase for parameters that are minimum values, or a 50 percent (50%) decrease for parameters that are maximum values (including but not limited to Ramp Rates and Maximum Shut Down Limits).

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- b.** The foregoing thresholds are intended to ensure that mitigation is only applied to significant instances of locational market power resulting from one or more Binding Transmission Constraints associated with a Broad Constrained Area.
- c.** The following thresholds shall be employed by the IMM to identify economic withholding that may warrant the mitigation of a unit in a Narrow Constrained Area when a constraint is binding as specified in (i) below, and shall be determined with respect to a Reference Level determined as specified in Section 64.1.4:

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- d. For Energy and minimum generation Offers: for intervals in which an interface into the Narrow Constrained Area in which a Generation Resource is located has a shadow price (*i.e.*, the value of relieving one MW of congestion on a constraint, as determined by Transmission Provider's market model) greater than zero (0), an increase in the Offer above the applicable Reference Level by more than the threshold determined in accordance with the following formula –

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$$\text{Narrow Constrained Area Threshold} = \frac{\text{Net Annual Fixed Cost}}{\text{Constrained Hours}}$$

Where:

Net Annual Fixed Cost = Annual fixed costs of a new peaking generator per MW, including recovery of capital costs, minus appropriate credits for net revenue the new peaking generator would receive from the Markets and Services provided under the Tariff and any applicable resource adequacy mechanism.

Constrained Hours = The total number of hours over the prior twelve (12) months in which a Binding Transmission Constraint has occurred on any interface into the Narrow Constrained Area in which the Generation Resource is located, but not more than 2000 hours.

- ii. Start-up Offers: A 50 percent (50%) increase.

[REDACTED]

[REDACTED]

- iv. The Transmission Provider shall post on its website the threshold values for each Narrow Constrained Area.

64.1.3 Thresholds for Identifying Uneconomic Production

- a.** The following thresholds will be employed to identify uneconomic production that may warrant the imposition of a Mitigation Measure:
 - i.** Energy scheduled at a location where the LMP is less than 50 percent (50%) of the applicable Reference Level and that causes a Binding Transmission Constraint; or

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- ii. Real-time output from a Generation Resource that exceeds 110 percent (110%) of the Dispatch Instructions, and causes a Binding Transmission Constraint.

64.1.4 Reference Levels

- a. Reference Levels are intended to reflect a Generation Resource's marginal costs, including legitimate risk and opportunity costs or justifiable technical characteristics for physical Offer parameters. A Reference Level for each component of a Generation Resource's Offer shall be calculated using the first of the three methods for which sufficient information is available, following the order in which they are listed below.

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- i. The lower of the mean or the median of a unit's accepted Offers or Offer components in competitive periods over the previous 90 days for similar hours or Load levels, adjusted for changes in fuel prices;
- iii. The mean of the LMP at the unit's location during the lowest-priced twenty-five percent (25%) of the hours that the unit was dispatched over the previous 90 days for similar hours or Load levels, adjusted for changes in fuel prices; or
- iii. A level determined in consultation with the Market Participant submitting the Offer or Offers at issue and intended to reflect a unit's marginal costs, including legitimate risks and opportunity

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costs, or justifiable technical characteristics for physical Offer parameters, provided such consultation has occurred prior to the occurrence of the conduct being examined. Such consultation may be initiated by either the IMM or the Market Participant.

- b. If sufficient data does not exist to calculate a Reference Level on the basis of either of the first two methods and the third is not applicable or an attempt to determine a Reference Level in consultation with a Market Participant has not been successful, the IMM shall determine a Reference Level on the basis of:

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- i. The IMM's estimate of the costs of a Generation Resource or technical characteristics of a Generation Resource for physical Offer parameters, taking into account available operating costs data, appropriate input from the Market Participant, and the best information available to the IMM; or
 - ii. An appropriate average of competitive Offers of one (1) or more similar Generation Resources.
- c. Reference Levels for the Energy Offers of a Generation Resource may vary over the output range of the Generation Resource. Reference Levels may be shifted to recognize ambient temperature conditions or seasonal factors based on input provided to the IMM by the Market Participant.

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- d. The IMM will make available to the Market Participant the Reference Levels applicable to that Participant's Offers upon request.
- e. Upon request by a Market Participant or at the initiative of the IMM, the IMM shall consult with a Market Participant with respect to the Reference Levels determined for that Market Participant. If cost data or other information submitted by a Market Participant indicates to the satisfaction of the IMM that the Reference Levels for that Market Participant should be changed, revised Reference Levels shall be determined, communicated to the Market Participant, and implemented, as soon as practicable. The IMM shall provide a written explanation of its determination to the Market Participant upon request.

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**64.2 Price Effects or Changes in Offer Revenue Sufficiency Guarantee
Payments**

64.2.1 Market Impact Thresholds

- a. In order to avoid unnecessary intervention in the Energy Markets and other markets administered by the Transmission Provider, Mitigation Measures shall not be imposed unless conduct identified as specified above (i) causes a substantial change in one or more prices in the Energy Markets or other markets administered by the Transmission Provider, or (ii) substantially increases Offer Revenue Sufficiency Guarantee Payments to Market Participants in the Energy Markets or other markets administered by the Transmission Provider.

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- b. The thresholds to determine a substantial price effect in a Broad Constrained Area shall be an increase of 200 percent or \$00 per MWh, whichever is lower, in the Hourly LMP at any location, or of any other price in an Energy Market or other market administered by the Transmission Provider.
- c. The thresholds to determine a substantial price effect in a Narrow Constrained Area in Constrained Hours (as defined in Section 64.1.2.c) shall be: the threshold determined in accordance with the formula specified in Section 64.1.2.c.i above.

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- d. The threshold to determine a substantial change in Offer Revenue Sufficiency Guarantee Payments shall be: an increase of 200 percent in the payment to a Market Participant for a Day.

64.2.2 Price Impact Analysis

- a. When it has the capability to do so, the IMM shall determine the effect on prices or Offer Revenue Sufficiency Guarantee Payments of questioned conduct through the use of sensitivity analyses performed using the Transmission Provider's market models, and such other computer modeling or analytic methods as the IMM shall deem appropriate. Pending development of the capability to use the market models, the IMM shall determine the effect on prices or Offer Revenue Sufficiency Guarantee Payments of questioned conduct using the best available data and such models and methods, as it shall deem appropriate.

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