

Current as of April 10, 2015. MNH

Tariff - Section 10.2 Liability

**Proposed Definition of PJM “Net Assets”:**

“Net Assets: The total assets per PJM’s consolidated quarterly or year-end financial statements most recently issued as of the date of the receipt of written notice of a claim less amounts for which PJM is acting as a temporary custodian on behalf of its Members, transmission developers/Designated Entities, and generation developers, including, but not limited to, cash deposits related to credit requirement compliance, study and/or interconnection receivables, member prepayments, invoiced amounts collected from Net Buyers but have not yet been paid to Net Sellers, and excess congestion.”

Comment [MH1]: Language in RED suggested by Suzanne Daugherty – 3/19/2015

**For reference - OA Definitions 1.7A “Designated Entity.”**

An entity, including an existing Transmission Owner or Nonincumbent Developer, designated by the Office of the Interconnection with the responsibility to construct, own, operate, maintain, and finance Immediate-need Reliability Projects, Short-term Projects, Long-lead Projects, or Economic-based Enhancements or Expansions pursuant to Section 1.5.8 of Schedule 6 of this Agreement

**Member – “Member”** shall mean an entity that satisfies the requirements of Section 11.6 of this Agreement and that (i) is a member of the LLC immediately prior to the Effective Date, or (ii) has executed an Additional Member Agreement in the form set forth in Schedule 4 hereof.

**CURRENT LANGUAGE**

Neither the Transmission Provider, a Transmission Owner, PJMSettlement, nor a Generation Owner acting in good faith to implement or comply with the directives of the Transmission Provider shall be liable, whether based on contract, indemnification, warranty, tort, strict liability or otherwise, to any Transmission Customer, third party or other person for any damages whatsoever, including, without limitation, direct, incidental, consequential, punitive, special, exemplary, or indirect damages arising or resulting from any act or omission in any way associated with service provided under this Tariff or any Service Agreement hereunder, including, but not limited to, any act or omission that results in an interruption, deficiency or imperfection of service, except to the extent that the damages are direct damages that arise or result from the gross negligence or intentional misconduct of the Transmission Provider, the Transmission Owner, PJMSettlement, or the Generation Owner, as the case may be.

To the extent that a Transmission Customer, third party or other person has a claim against the Transmission Provider, PJMSettlement, a Transmission Owner, or a Generation Owner acting in

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good faith to implement or comply with the directives of the Transmission Provider the amount of any judgment or arbitration award on such claim entered in favor of the Transmission Customer, third party or other person shall be limited to the value of the Transmission Provider's ~~assets-Net Assets~~ or the Transmission Owner's assets or the Generation Owner's assets, as the case may be. The Transmission Customer, third party or other person may not seek to enforce any claims against the directors, managers, members, shareholders, officers or employees of the Transmission Provider, a Transmission Owner, or a Generation Owner acting in good faith to implement or comply with the directives of the Transmission Provider who shall have no personal liability for obligations of the Transmission Provider, a Transmission Owner, or a Generation Owner by reason of their status as directors, managers, members, shareholders, officers or employees of the Transmission Provider or a Transmission Owner or a Generation Owner; provided, however, that nothing herein contained shall affect the obligations of any member of the Transmission Provider or PJMSettlement under the Operating Agreement or this Tariff or any schedule hereunder.

Comment [MH2]: Proposed. 3/19/2015

**Tariff- Section 12 Alternative Dispute Resolution**

**12.1 Internal Dispute Resolution Procedures**

**CURRENT LANGUAGE**

Any dispute between a Transmission Customer, an affected Transmission Owner, or the Transmission Provider involving transmission service under the Tariff (applications for rate changes or other changes to the Tariff, or to any Service Agreement entered into under the Tariff, which shall be presented directly to the Commission for resolution) shall be referred to a designated senior representative of each of the parties to the dispute for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days (or such other period as the parties to the dispute may agree upon) by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.

**REDLINE**

Any dispute between a Transmission Customer, an affected Transmission Owner, or the Transmission Provider involving transmission service under the Tariff (~~excluding disputed legal interpretations of the Tariff, or~~ applications for rate changes or other changes to the Tariff, or ~~to~~ any Service Agreement entered into under the Tariff, which shall be presented directly to the Commission for resolution) shall be referred to a designated senior representative of each of the parties to the dispute for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days (or such other period as the parties to the dispute may agree upon) by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.

**CLEAN WITH SUGGESTED CHANGES**

Any dispute between a Transmission Customer, an affected Transmission Owner, or the Transmission Provider involving transmission service under the Tariff (excluding disputed legal interpretations of the Tariff, applications for rate changes or other changes to the Tariff, or any Service Agreement entered into under the Tariff, which shall be presented directly to the Commission for resolution) shall be referred to a designated senior representative of each of the parties to the dispute for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days (or such other period as the parties to the dispute may agree upon) by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.

**PJM “Dispute Resolution Procedures”**

**Operating Agreement: Section 3.1 of Schedule 5 – Negotiation and Mediation**

**CURRENT LANGUAGE**

The parties to a dispute shall undertake good-faith negotiations to resolve any dispute as to a matter governed by one of the Related PJM Agreements. Each party to a dispute shall designate an executive with authority to resolve the matter in dispute to participate in such negotiations. Any dispute involving a matter governed by one of the Related PJM Agreements that has not been resolved through good-faith negotiation shall be subject to non-binding mediation prior to the initiation of arbitral, regulatory, judicial, or other dispute resolution proceedings as may be appropriate as provided by these PJM Dispute Resolution Procedures.

**REDLINE**

The ~~p~~Parties to a dispute shall undertake good-faith negotiations to resolve any dispute as to a matter governed by one of the Related PJM Agreements. Each party to a dispute shall designate an executive with authority to resolve the matter in dispute to participate in such negotiations. Any dispute involving a matter governed by one of the Related PJM Agreements that has not been resolved through good-faith negotiation shall be subject to non-binding mediation prior to the initiation of arbitral, regulatory, judicial, or other dispute resolution proceedings as may be appropriate as provided by these PJM Dispute Resolution Procedures. Notwithstanding the foregoing, any dispute involving differing legal interpretations of the Related PJM Agreements or involving applications for rate changes or other changes to the Related PJM Agreements or Service Agreements entered into under the Tariff shall be presented directly to the Commission for resolution.

**CLEAN WITH SUGGESTED CHANGES**

The parties to a dispute shall undertake good-faith negotiations to resolve any dispute as to a matter governed by one of the Related PJM Agreements. Each party to a dispute shall designate an executive with authority to resolve the matter in dispute to participate in such negotiations. Any dispute involving a matter governed by one of the Related PJM Agreements that has not been resolved through good-faith negotiation shall be subject to non-binding mediation prior to the initiation of arbitral, regulatory, judicial, or other dispute resolution proceedings as may be appropriate as provided by these PJM Dispute Resolution Procedures. Notwithstanding the foregoing, any dispute involving legal interpretations of the Related PJM Agreements or involving applications for rate changes or other changes to the Related PJM Agreements or Service Agreements entered into under the Tariff, which shall be presented directly to the Commission for resolution.

| **Operating Agreement – Section 4.1 of Schedule 5 – Arbitration**

| **CURRENT LANGUAGE**

Any dispute as to a matter: (i) governed by one of the Related PJM Agreements that has not been resolved through the mediation procedures specified herein, (ii) involving a claim that one or more of the parties owes or is owed a sum of money, and (iii) the amount in controversy is less than \$1,000,000.00, shall be subject to binding arbitration in accordance with the procedures specified herein. If the parties so agree, any other disputes as to a matter governed by a Related PJM Agreement may be submitted to binding arbitration in accordance with the procedures specified herein.

| **REDLINE**

| Any dispute as to a matter: (i) governed by one of the Related PJM Agreements that has not been resolved through the mediation procedures specified herein, (ii) involving a claim that one or more of the parties owes or is owed a sum of money, and (iii) the amount in controversy is less than \$1,000,000.00, shall be subject to binding arbitration in accordance with the procedures specified herein. If the parties so agree, any other disputes as to a matter governed by a Related PJM Agreement may be submitted to binding arbitration in accordance with the procedures specified herein. [Notwithstanding the foregoing, any dispute involving differing legal interpretations of the Related PJM Agreements or involving applications for rate changes or other changes to the Related PJM Agreements or Service Agreements entered into under the Tariff shall be presented directly to the Commission for resolution.](#)

| **CLEAN WITH SUGGESTED CHANGES**

Any dispute as to a matter: (i) governed by one of the Related PJM Agreements that has not been resolved through the mediation procedures specified herein, (ii) involving a claim that one or more of the parties owes or is owed a sum of money, and (iii) the amount in controversy is less than \$1,000,000.00, shall be subject to binding arbitration in accordance with the procedures specified herein. If the parties so agree, any other disputes as to a matter governed by a Related PJM Agreement may be submitted to binding arbitration in accordance with the procedures specified herein. [Notwithstanding the foregoing, any dispute involving legal interpretations of the Related PJM Agreements or involving applications for rate changes or other changes to the Related PJM Agreements or Service Agreements entered into under the Tariff, which shall be presented directly to the Commission for resolution.](#)