

# PJM Capacity Credits

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## **PJM Capacity Credits**

### **Product:**

“PJM Capacity Credits” which means Capacity Credits as such term is defined in Schedule 11 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (“PJM OA”).

### **Scheduling:**

Seller and Buyer shall accomplish delivery and receipt of the Product by entering and confirming appropriate transactions in PJM’s eCapacity system, or any successor system, as applicable (“System”). Seller and Buyer shall use commercially reasonable efforts to cooperate with each other to ensure that such entry and confirmation is completed in a timely manner as per the rules, regulations and procedures for the PJM Capacity Credit Markets. For purposes of this Transaction, such entry and confirmation by Seller and Buyer shall replace the definitions of “Schedule” or “Scheduling” in the Master Agreement. Notwithstanding whether Seller and Buyer Schedule the Product for a Delivery Period which is in excess of one (1) month, Section 6.1 of the Master Agreement shall be applicable with respect to payments for the Product.

### **Buyer’s Damages and Other Rights Associated with Seller’s Failure to Timely Schedule:**

If Seller fails to timely Schedule all or part of the Product, and such failure is not excused by Buyer’s failure to perform or Force Majeure, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred, all Deficiency Charges (as then defined in Schedule 11 to the applicable PJM Reliability Assurance Agreement (“RAA”)) assessed to Buyer by PJM caused by Seller's failure to timely Schedule all or part of the Product. In addition, to the extent that the failure to timely Schedule results in either Buyer being assessed by PJM (i) a Deficiency Charge associated with an amount of MW that is less than the Quantity, or (ii) no Deficiency Charges, then, for each day of the failure to timely Schedule, Buyer shall also be entitled to the positive difference, if any, obtained by subtracting the Contract Price from the applicable daily clearing price in PJM’s daily auction for the Product and multiplying such difference by the portion of the Quantity which is not timely Scheduled for which no Deficiency Charge is assessed. Furthermore, notwithstanding any failure of Seller to timely Schedule all or part of the Product, Buyer shall still owe Seller the full Contract Price for the Quantity, it being understood and agreed that such amount shall be netted against any damages Seller owes Buyer hereunder.

If more than one seller fails to timely Schedule the Product to Buyer on the same day, and Buyer incurs Deficiency Charges, then Seller shall be responsible for a pro rata share of such Deficiency Charges based on the relative size of the Quantity to be provided hereunder as compared to the Quantity to be provided by any such other sellers.

Upon (i) any such failure of Seller to timely Schedule all or part of the Product that is not excused by Buyer's failure to perform or Force Majeure, and (ii) notice from Buyer (which may be oral) of such failure, Seller shall be obligated to enter (or confirm as applicable) the Transaction into the System (to the extent that the System shall accept such entry) within three (3) Business Days of Buyer's notice for at least all of the then remaining days of the Delivery Period of the Transaction in the Interval (as defined in the RAA) in which the failure to Schedule occurred, and to promptly notify Buyer of such entry or confirmation (which notice may be oral). Buyer, if necessary, shall then be obligated to confirm such entry in the System as soon as reasonably practicable after receiving such notice. If Seller fails to so enter or confirm such applicable portion of the Transaction in the System by the end of such three (3) Business Day period, then Buyer shall have the right, but not the obligation, to terminate this Transaction by giving written notice to Seller; provided, however, if Buyer fails to exercise this right of termination within thirty (30) calendar days after the end of such three (3) Business Day period, then such right of termination shall no longer be available to Buyer and Seller shall not be liable for any Deficiency Charges assessed to Buyer by PJM caused by Seller's failure to timely Schedule all or part of the Product from and after the end of such thirty (30) calendar day period. In the event of any such termination, in addition to the damages set forth above for the period prior to any such termination, Buyer shall be entitled to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price (determined as set forth in the Master Agreement but without reference to Delivery Point and not including any additional transmission charges) and multiplying such difference by the Quantity attributable to the remaining Delivery Period of the Transaction ("Seller Transaction Payment").

Buyer shall invoice Seller for all amounts Seller owes Buyer hereunder which shall include (i) a written statement explaining in reasonable detail the calculation of such amounts and (ii) with respect to any Deficiency Charges included therein, supporting documentation of such charges from PJM and a certification from Buyer that (i) such Deficiency Charges were attributable solely to Seller, or (ii) such Deficiency Charges were incurred on a day on which more than one seller failed to timely Schedule the Product to Buyer and setting forth the pro rata share of Seller of such Deficiency Charges as provided herein. The Seller Transaction Payment shall be payable on the date payment would otherwise be due in respect of the month in which the failure occurred, or if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt.

**Seller's Damages and Other Rights Associated with Buyer's Failure to Timely Schedule:**

If Buyer fails to timely Schedule all or part of the Product, and such failure is not excused by Seller's failure to perform or Force Majeure, then Buyer shall nonetheless pay Seller the full Contract Price for the Quantity on the date payment would otherwise be due in respect of the month in which the failure occurred.

Upon (i) any such failure of Buyer to timely Schedule all or part of the Product that is not excused by Buyer's failure to perform or Force Majeure, and (ii) notice from Seller (which may be oral) of such failure, Buyer shall be obligated to enter (or confirm as applicable) the Transaction into the System (to the extent that the System shall accept such entry) within three (3) Business Days of Seller's notice for at least all of the then remaining days of the Delivery Period of the Transaction in the Interval in which the failure to Schedule occurred, and to promptly notify Seller of such entry or confirmation (which notice may be oral). Seller, if necessary, shall then be obligated to confirm the Transaction as soon as reasonably practicable after receiving such notice. If Buyer fails to so enter or confirm such applicable portion of the Transaction in the System by the end of such three (3) Business Day period, then Seller shall have the right, but not the obligation, to terminate this Transaction by giving written notice to Buyer; provided, however, if Seller fails to exercise this right of termination within thirty (30) calendar days after the end of such three (3) Business Day period, then such right of termination shall no longer be available to Seller. In the event of any such termination, in addition to the damages set forth above for the period prior to any such termination, Seller shall be entitled to the positive difference, if any, obtained by subtracting the Sales Price (determined as set forth in the Master Agreement but without reference to Delivery Point and not including any additional termination charges) from the Contract Price and multiplying such difference by the Quantity attributable to the remaining Delivery Period of the Transaction ("Buyer Transaction Payment").

Seller shall invoice Buyer for all amounts Buyer owes Seller hereunder which shall include a written statement explaining in reasonable detail the calculation of such amounts. The Buyer Transaction Payment shall be payable on the date payment would otherwise be due in respect of the month in which the failure occurred, or if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt.

**Limitation of Remedies:**

The remedies for a Party's failure to timely Schedule the Product as set forth herein shall replace the remedies set forth in Sections 4.1 and 4.2 of the Master Agreement. Any termination of the Transaction with respect to the Product by a Party hereunder shall not be an Event of Default of the other Party under the Master Agreement unless and until a failure occurs under Section 5.1(a) of the Master Agreement. If both Parties fail to timely Schedule the Product on any one occasion, neither Party shall be entitled to any damages or remedies hereunder or the Master Agreement for such occasion.



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