

1 ATTACHMENT NN-ATCLLC

Agreement for Blackstart Resource Service

This Agreement for Blackstart Resource service (Agreement) is entered into as of this ____ day of _____, 20__, between American Transmission Company LLC, by its corporate manager, ATC Management Inc. (collectively “ATC”), a limited liability company and corporation, respectively, organized and existing under Wisconsin law, with a principal place of business located at W234 N2000 Ridgeview Parkway Court., Waukesha, Wisconsin 53188-1022, and _____ (“Blackstart Unit Owner” or “Owner”), a _____ corporation/limited liability company/other (select one), organized and existing under _____ law, with a principal place of business located at _____ ATC and Owner may be referred to as “Party” or “Parties” as the context may require.

Representations:

A. ATC is a public utility under the laws of the State of Wisconsin and the Federal Power Act (16 USC 799, *et seq.*), and is a standalone transmission company that owns, operates and controls transmission facilities over which transmission service is provided in interstate commerce pursuant to the provisions of the Open Access Transmission and Energy and

Operating Reserves Markets Tariff (Tariff) of the Midcontinent Independent System Operator, Inc. (MISO). ATC does not own, operate or otherwise control any generating facilities and is precluded from doing so under Wisconsin law, except for certain ancillary services.

B. ATC is, among other things, a registered “Transmission Operator” (TOP) as that term is defined in the glossary of terms of the North American Electric Reliability Corporation (NERC) under the registry requirements of the Midwest Reliability Organization (MRO) and ReliabilityFirst

Corporation (RFC). As a result, ATC is subject to certain mandatory reliability standards applicable to Transmission Operators, including the mandatory reliability standards relating to the development and maintenance of a Blackstart System Restoration Plan (BSRP) under the mandatory reliability standards.¹

C. Owner owns, operates or otherwise controls one or more generating units or generating facilities comprised of one or more generating units capable of providing Blackstart Resource service (via “a Blackstart Unit named in the TOP’s Restoration Plan” or “BSRU”) as defined and subject to the North American Electric Reliability Corporation’s (NERC) Glossary of Terms, and as provided under the provisions of the MISO Tariff, specifically Sections 1.52a through 1.52e of the Tariff, and Schedule 33, as the NERC Glossary of Terms and the MISO Tariff may be amended from time to time.

D. ATC has developed a BSRP pursuant to the mandatory reliability standard requirements, and, as a result, has incorporated one or more of Owner’s Blackstart Units into ATC’s BSRP.

E. Owner is willing to provide Blackstart Resource service to ATC. The Parties have determined that it is in their mutual interest to set forth the terms, conditions and limitations

relating to the Blackstart Resource service to be provided by Owner from the designated BSRU(s).

Therefore, the Parties agree, as follows:

- 1. Blackstart System Restoration Plan.** In accordance with the NERC, MRO and RFC mandatory reliability standards, ATC has developed a BSRP for the purpose of restoring its portion of the Transmission System to normal operation following an event requiring Blackstart service. In accordance with ATC's business practice relating to Blackstart Resource service, ATC has evaluated those BSRUs that are capable of providing Blackstart Resource service in order to assist in the restoration of normal operations of ATC's portion of the Transmission System, and has determined that the BSRU(s) set forth on Attachment A to this Agreement are to be included in the BSRP in effect at the time of the execution of this Agreement. ATC hereby agrees to include the BSRU(s) designated on Attachment A in its currently effective BSRP.
- 2. Blackstart Resource Unit Commitment.** By execution of this Agreement, Owner hereby agrees to provide Blackstart Resource service to ATC as the registered TOP from the BSRU(s) identified and set forth on Attachment A in the event that ATC or the registered Reliability Coordinator (RC) having responsibility for MISO's Transmission System requests Blackstart Resource service to be provided from such designated BSRU(s).
- 3. Blackstart Resource Unit Requirements.** Owner acknowledges and agrees that during the term of this Agreement, and in accordance with Schedule 33 of the MISO Tariff, Owner shall provide Blackstart Resource service from the Blackstart Resources set forth on Attachment A, which are subject to requirements that shall include but are not limited to:

a) Testing of the BSRU(s) designated on Attachment A to produce electricity without receiving electricity from any other source and Owner shall test the ability of the BSRU(s) designated on Attachment A (together with all installed systems and their associated components the reliable operation of which is required to permit the BSRU to begin producing electricity without receiving electricity from any other source) such that each Blackstart Resource is tested at least once every three calendar years beginning after the effective date of this Agreement.

b) Training those employees necessary to operate each BSRU designated on Attachment A in all requirements, systems or procedures necessary to provide Blackstart Resource service from each such BSRU.

c) Adequately maintain all mechanical, electrical, fuel storage or handling equipment, or other necessary elements of the BSRU in accordance with Good Utility Practice including but not limited to all installed equipment necessary to supply fuel to, start and thereafter operate the BSRU without electricity from sources other than the BSRU; maintain all installed communications systems, and their components in accordance with Good Utility Practice;

d) Obtain and thereafter maintain at the location of each such BSRU a sufficient amount of designated fuel necessary to operate each BSRU to provide Blackstart Resource service for the minimum duration set forth on Attachment A, or otherwise provide to ATC evidence satisfactory to ATC that Owner has commitments for or access to the required fuel from sources the delivery of fuel from which would not be adversely affected in the event of a Blackstart event.

e) Not make material changes, modifications or additions to the BSRU equipment necessary for blackstart operation of any installed components, including but not limited to any electrical, mechanical, fuel delivery or communications systems or equipment that would materially change the characteristics of the Blackstart Resource as described on Attachment A without the written approval of ATC. Owner will make all reasonable efforts to provide not less than ninety (90) days' advance written notice of all changes, modifications or additions to the BSRU to ATC that would change the operating characteristics or operating parameters of the BSRU.

f) Coordinate all scheduled maintenance requirements for all BSRUs set forth on Attachment A with ATC. Owner shall, not later than twenty four (24) months prior to any date on which Owner intends to remove any one of the BSRUs from service for maintenance purposes, inform ATC in writing of its intended scheduled maintenance and the maintenance outage period. Within sixty (60) days following receipt of such written notice, ATC shall advise Owner whether such outage period is acceptable to ATC. If such period is not acceptable to ATC, ATC and Owner shall cooperate to determine an acceptable date. If the Parties cannot agree upon an acceptable outage period, the Parties shall follow the dispute resolution provisions of Attachment HH of the MISO Tariff. The Parties expressly understand and agree that unscheduled maintenance may occur at any BSRU subject to this Agreement. Owner shall provide to ATC such reasonable notice as is possible under the circumstances relating to all unscheduled maintenance for any BSRU subject to this Agreement, including Owner's reasonable estimate of the duration of such unscheduled maintenance outage duration.

4. Cost Recovery and Payment. Owner shall be entitled to recover all costs incurred in providing Blackstart Resource service from the designated BSRU(s) as calculated in accordance with Schedule 33-ATCLLC and MISO Schedule 33, or as otherwise provided in any proceeding by FERC to recover the costs of providing Blackstart Resource service from any designated BSRU. ATC and Owner acknowledge and agree that the amounts which Owner is entitled to receive shall be collected by MISO pursuant to Schedule 33 or any successor Schedule or other Tariff provision, and Owner shall be paid directly by MISO for all amounts that Owner is entitled to receive. Owner agrees that the receipt of such amounts from MISO satisfies and fulfills any and all obligations of ATC or the Transmission Customers receiving service from MISO that are obligated to pay the rates and charges for Transmission Service in the ATC Pricing Zone, to compensate Owner for providing Blackstart Resource service from the designated BSRU(s).

5. Effective Date; Term and Termination. This Agreement shall become effective upon its execution by the Parties and acceptance of the Agreement for filing by the FERC (Effective Date) and shall remain in full force and effect for a period of three (3) years following the Effective Date. This Agreement shall continue after the initial three (3) year period for successive one- (1) year extension periods beginning on the anniversary of the Effective Date.

Notwithstanding the foregoing sentence, Owner shall be entitled to terminate this Agreement with respect to any designated BSRU by providing ATC and MISO with not less than twelve (12) months prior written notice terminating this Agreement as to one or more of the designated BSRU(s). Upon the expiration of such twelve (12) month period, this Agreement shall terminate as to such BSRU. If there is only one designated BSRU or only one remaining

BSRU subject to this Agreement, then, upon the expiration of such twelve (12) month period, this Agreement shall terminate in its entirety. Owner shall also be entitled to terminate this Agreement in accordance with the provisions of Paragraph 8, below.

Notwithstanding any other provision of this Agreement, in the event that 1) ATC is no longer a registered TOP; or 2) if the requirements of NERC, MRO or RFC are changed and ATC is no longer required to develop and maintain a BSRP; 3) or in the event of the sale, assignment, merger or other transfer of ATC's transmission facilities; then ATC may, upon not less than two (2) years notice to Owner, assign or terminate this Agreement.

6. Blackstart Restoration Plan Revisions; Modifications; and Termination. ATC and Owner acknowledge and agree that ATC is required to review not less frequently than annually, and, to the extent appropriate, modify, revise or otherwise change its BSRP to fulfill its obligations under the mandatory reliability standards. ATC and Owner acknowledge and agree that any changes, modifications or revisions to ATC's BSRP could result in one or more of the designated BSRU(s) set forth on Attachment A no longer being required by ATC to fulfill its BSRP and the mandatory reliability standards. In the event that any change, modification or revision to the BSRP results in one or more of the BSRU(s) designated on Attachment A no longer being required by ATC to fulfill the requirements of ATC's BSRP or the mandatory reliability standards, then ATC shall be entitled to terminate this Agreement with respect to such BSRU(s) that are no longer required, provided however, that in the event that ATC terminates this Agreement with respect to any designated BSRU, then Owner shall be entitled to continue to receive compensation for any incremental fixed and any variable costs incurred in providing

Blackstart Resource service from such BSRU that, at the time of such termination, have not yet been recovered in accordance with Schedule 33-ATCLLC.

7. Regulatory Approvals. ATC and Owner acknowledge and agree that approval for the supply of Blackstart Resource service from the designated BSRU(s) set forth on Attachment A may be required from the Public Service Commission of Wisconsin if Owner is an affiliate of ATC as defined in §196.52 *Wis. Stats.* Furthermore, ATC and Owner acknowledge and agree that the terms, conditions and limitations of this Agreement may affect the rates and charges subject to the jurisdiction of the FERC, and this Agreement, once executed by the Parties, shall be filed with the FERC in accordance with Schedule 33. Either or both approvals are deemed “Regulatory Approvals” under this Agreement. ATC and Owner agree to cooperate and jointly file, or, in the case of an ATC filing at FERC, Owner will submit a certificate of concurrence in accordance with 18 C.F.R. § 35.1 and Form 131.52, to the extent necessary or required for acceptance of this Agreement in any and all required Regulatory Approvals.

Owner and ATC each retain any and all rights that they may have pursuant to Sections 205 or 206 of the Federal Power Act (16 USC 799a, *et seq.*) in connection with the costs to be paid pursuant to this Agreement for Blackstart Resource service. Nothing in this Agreement shall be deemed to have waived the rights of either Party to seek additional amounts or to challenge the receipt of any amount in any proceeding before the FERC or any successor agency in connection with the provision of Blackstart Resource service from any designated BSRU.

8. Regulatory Changes. ATC and Owner acknowledge and agree that the requirements of NERC, MRO, RFC, PSCW and FERC in connection with mandatory Reliability Standards, the required Regulatory Approvals relating to Blackstart Resource service, Blackstart Units and

Blackstart System Restoration Plans or the provisions of the MISO Tariff are subject to change or the BSU(s) covered by this Agreement may suffer a failure that may, in Owner's judgment, not warrant repair or replacement. To the extent that: 1) any requirements of NERC, MRO, RFC, MISO, PSCW or the FERC impose greater requirements, or otherwise materially impact or affect either Party's ability to perform under this Agreement; 2) any regulatory action materially impacts Owner's ability or right to recover the costs for providing Blackstart Resource service; or 3) the BSU(s) governed by this Agreement suffer a failure that, in Owner's judgment, warrants removing the BSU from this Agreement, then the Parties agree that, upon not less than thirty (30) days' written notice to the other, the Parties shall meet to determine the manner in which to proceed in light of such change event. If the Parties cannot agree on how to proceed, and Owner, in its judgment, is not permitted to recover the costs incurred by Owner in providing Blackstart Resource service from one or more of the designated BSRU(s), or determines that the BSU should be removed from this Agreement, then, upon not less than 90 days written notice to ATC following the meeting required in the preceding sentence, Owner shall be entitled to terminate this Agreement either as to any designated BSRU or in its entirety.

9. Additional Agreements. To the extent required, ATC and or Owner shall enter into such additional agreements to permit ATC to include the designated BSRU(s) in its BSRP or to permit Owner to be entitled to receive compensation for providing Blackstart Resource service from any of the designated BSRU(s).

10. Records; Audit Rights. Owner shall keep and maintain records of employee training, BSRU testing, including the testing of all electrical, mechanical or communication components of all designated BSRUs for the period required by the mandatory reliability standards, and all

cost records associated with the costs incurred by Owner in providing Blackstart Resource service for a period of not less than three (3) years from the date such costs were incurred in connection with BSRUs providing Blackstart Resource service under this Agreement. ATC shall have the right, upon reasonable written notice to Owner, to inspect the records kept and maintained by Owner at such place or location as is convenient to Owner or as may be agreed to by the Parties. All records shall be kept confidential and ATC shall not disclose to any entity, any of the information contained in such records, except to the extent that such disclosure is required under the mandatory reliability standards, and then only upon written notice to Owner. Owner may seek any protection of such records from public disclosure as Owner determines to be necessary to protect the confidentiality of such records.

11. Representations and Warranties of the Parties. The Parties hereby make the following mutual representations and warranties:

- a) Each is authorized to enter into this Agreement. The entry into this Agreement is fully authorized by their respective organizational agreements, charters or authorizations, and nothing in this Agreement constitutes, or would constitute, a breach of any other agreement to which either party is also a party.
- b) Except as provided in this Agreement, no other authorizations from any court or administrative or regulatory agency is required for either Party to enter into this Agreement or to fulfill their respective duties and obligations under this Agreement.
- c) Each Party is solvent, has not commenced, or is not intending to commence any proceeding in any bankruptcy court, any action in any state court seeking protection from

its creditors, or seeking to invoke protection in the form of any receivership or trusteeship.

d) Owner further represents that:

1) It owns, operates or otherwise controls the operation of each BSRU designated on Attachment A, and it possesses the full, right, power and authority to supply Blackstart Resource service from each designated BSRU under this Agreement.

2) All of the information provided to ATC in connection with the evaluation of each designated BSRU is to Owner's knowledge and understanding, true, correct and accurate, and Owner has exercised due diligence in determining all information necessary for ATC to evaluate the ability of each designated BSRU to provide Blackstart Resource service to permit ATC to fulfill its mandatory reliability obligations.

3) Owner is a registered Generator Owner/Operator (GO) under the mandatory reliability standards of NERC, MRO or RFC, knows and understands the requirements of the mandatory reliability standards relating to the operation of Blackstart Units and Blackstart Resource service. For so long as any designated BSRU is governed by the terms of this Agreement, Owner shall keep and maintain its registration as a GO or any successor designation established by NERC. Owner and each BSRU designated on Attachment A meets the definitions set forth in Sections 1.53a through 1.53e of the MISO Tariff.

- 4) Except as provided above, Owner has not entered into any other agreement with any other party designating the BSRU(s) set forth on Attachment A to provide Blackstart Resource service in connection with any other TOP's BSRP, or has otherwise entered into an agreement with any other party that would inhibit, preclude or otherwise impede ATC's ability to call upon such BSRU in the event that Blackstart Resource service is required from such BSRU.
- e) ATC represents:
 - 1) It is a registered TOP under the mandatory reliability standards of NERC, MRO and RFC, and during the term of this Agreement shall keep and maintain its registration as a TOP.
 - 2) ATC's BSRP incorporates the designated BSRU(s) set forth on Attachment A and Blackstart Resource service is required from the BSRU(s) set forth on Attachment A in order for ATC to fulfill its requirements under its BSRP.

12. Limitation of Remedies, Liability and Damages

The provisions of Section 10.1 through 10.7 of the MISO Tariff shall apply to this Agreement. For the purposes of this Agreement, Owner shall be included in the definition of "Tariff Customer" as set forth in Section 1.652 of the MISO Tariff.

13. General Provisions. The following general provisions apply to this Agreement:

- a) This Agreement constitutes the entire understanding of the Parties concerning the supply and receipt of Blackstart Resource service from the designated BSRUs. All other

agreements, understandings or arrangements, whether written or oral, are merged into this Agreement.

b) This Agreement, and any of the terms, conditions, limitations, obligations or duties may not be changed, modified, revised or amended, except by another instrument in writing endorsed by authorized representatives of the Parties.

c) This Agreement is not intended to create any right, duty or entitlement in any other party, and the Parties expressly disclaim any right of any third party to the benefits of this Agreement.

d) In the event that any term, condition, limitation or provision of this Agreement is found by a regulatory agency having subject matter jurisdiction or a court of competent jurisdiction to be invalid, null and void, or otherwise unenforceable, then the remaining provisions of this Agreement shall be construed as broadly as possible to enforce, or otherwise embody the understanding of the Parties. If even such construction does not result in an enforceable Agreement, then the Parties shall meet upon not less than thirty (30) days' written notice to determine how to amend, modify or otherwise revise the Agreement to overcome such event and to arrive at an enforceable agreement.

e) In the event that any action is required in connection with this Agreement that must be maintained in a judicial proceeding, then such action shall be commenced in any Court of the state of Wisconsin that has subject matter jurisdiction and both Parties consent to the personal jurisdiction of the Court. Each Party, to the extent permitted by law, waives any and all entitlement to a trial by jury and any proceeding shall be

conducted by the Court. This Agreement shall be construed in accordance with the laws of the state of Wisconsin, not including any choice of law provisions.

f) All notices required under this Agreement shall be provided as follows:

To ATC:

Telephone: _____

Facsimile: _____

Electronic: _____

To Company:

Telephone: _____

Facsimile: _____

Electronic: _____

All notices sent electronically, either via electronic mail or facsimile shall be deemed received on the day sent, provided there is a receipt from the sender indicating the date and time such notice was sent; if sent via overnight express courier or express

mail from the United States Postal Service, all notices shall be deemed received based upon the courier's or United States Postal Service receipt of delivery; if sent via United States Postal Service mail, then such notice shall be deemed received three (3) days following the date of the post mark.

Each Party shall be entitled to change the location or party entitled to receive notification under this Agreement by supplying such revised information to the other Party at the last address, whether street or electronic provided by the other Party.

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**THIS AGREEMENT IS ENTERED INTO AS OF THE DATE SET FORTH ABOVE BY
THE AUTHORIZED REPRESENTATIVES OF THE PARTIES WHOSE SIGNATURES
ARE SET FORTH BELOW.**

American Transmission Company LLC

By its corporate manager, ATC Management Inc.

Authorized representative/Date

Company [insert name]

Authorized representative/Date

1 Capitalized terms not otherwise defined in this Agreement have the meanings set forth in the Mandatory Reliability Standards of
NERC or the Tariff of the MISO.