

Effective December 1, 2025

Fitchburg Gas and Electric Light Company

Wholesale Distribution Tariff

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Attachment A: Pro Forma Wholesale Distribution Service Agreement

Introduction:

This Wholesale Distribution Tariff (“WDT” or “Tariff”) sets forth the rates, terms, and conditions for the provision of Wholesale Distribution Service (“WDS”) by Fitchburg Gas and Electric Light Company (“FG&E” or “Company”) to customers owning or operating eligible Energy Storage Systems (“ESS”) interconnected to the Company’s Distribution System (“Customer” or “Customers”) for purposes of delivering Wholesale Charging Load. FG&E will deliver energy to a Customer’s Wholesale Charging Load under this Tariff and the Customer’s Wholesale Distribution Service Agreement. Company and Customer may be referred to individually as “Party” or collectively as “Parties.”

1. Definitions

- 1.1 **Critical Service Load.** A subset of Station Service Load which is specific to the electric energy used for critical support of the operation of the ESS. Critical Service Load includes the HVAC of the ESS only, fire suppression system, and the inverter control system of the ESS.
- 1.2 **Customer.** The entity taking WDS under this Tariff.
- 1.3 **Distribution System.** The electric facilities of the Company classified as local distribution under FERC’s Order No. 888 seven-factor test.
- 1.4 **Energy Storage System (“ESS”).** A commercially available technology that is capable of absorbing electricity, storing it for a period of time, and thereafter dispatching the electricity.
- 1.5 **FERC:** The Federal Energy Regulatory Commission (“FERC” or “Commission”).
- 1.6 **Force Majeure.** Any act of God, labor disturbance, act of the public enemy or terrorists, war, invasion, insurrection, riot, fire, storm or flood, ice, explosion, breakage or accident to machinery or equipment, any curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other event that is beyond the reasonable control of the affected Company or Customer, and that the affected Company or Customer is unable to prevent or provide against by exercising commercially reasonable efforts.
- 1.7 **Good Utility Practice.** Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather includes all acceptable

practices, methods, or acts generally accepted in the region, including those practices required by Federal Power Act Section 215 (a)(4).

- 1.8 **Interconnection Service Agreement (“ISA”).** The interconnection agreement entered into between the Customer and the Company, providing for parallel operation of the Customer’s facility with the Company’s Distribution System pursuant to the Company’s Standards for Interconnection of Distributed Generation (M.D.P.U. No. 452, as amended from time to time) under the jurisdiction of the MDPU.
- 1.9 **ISO-NE.** The ISO New England Inc., the regional transmission organization for New England.
- 1.10 **ISO-NE Tariff.** The ISO New England Inc.’s Transmission, Markets and Services Tariff and accompanying schedules and attachments, as modified and amended from time to time.
- 1.11 **MDPU.** The Massachusetts Department of Public Utilities.
- 1.12 **Monthly WDS Charge.** The amount billed to the Customer for WDS in a billing month.
- 1.13 **Point of Common Coupling.** The point where the Customer’s local electric power system connects to the Company’s Distribution System, also referred to herein as “PCC”.
- 1.14 **Standalone ESS.** A separately metered Customer ESS facility at which the only sources of electrical load are the charging of the ESS technology and/or any ESS Station Service Load, and which is not co-located behind the same PCC with any generation or any other customer loads that are electrically capable of being served by the ESS.
- 1.15 **Station Service Load.** The electric energy used for the heating, lighting, air-conditioning, and office equipment needs of the buildings at the ESS site, and for operating the electric equipment that is on the ESS site. Loads considered Station Service shall be limited to those directly supporting the operation of the ESS, excluding charging load.
- 1.16 **Wholesale Charging Load.** The wholesale energy used by the Customer’s ESS such that it can discharge and sell energy, capacity, ancillary services, or other FERC-jurisdictional services in the ISO-NE marketplace as described in the ISO-NE Tariff, Section III, Market Rule 1.
- 1.17 **Wholesale Distribution Service (“WDS”).** Transportation of wholesale electric power over the Company’s Distribution System to Customer’s Wholesale Charging Load.

- 1.18 **Wholesale Distribution Service Agreement (“WDSA”).** The agreement between Company and Customer for the provision of WDS under this Tariff and any amendments or supplements thereto. A *pro forma* WDSA is included with this Tariff as Attachment A.

2. Eligibility

- 2.1 The Company will provide WDS under this WDT to Stand Alone ESS customers who:
- (i) are a party to an ISA with the Company;
 - (ii) require the use of Company’s Distribution System to deliver energy to its Wholesale Charging Load;
 - (iii) participates in the wholesale market to sell energy, capacity, ancillary services or other FERC-jurisdictional services; and
 - (iv) is registered (directly or indirectly) with ISO-NE to participate in its markets.
- 2.2 Customer facilities with any end use loads not qualified as Charging Load or Station Service which are electrically capable of being served by the ESS shall not be eligible for service under this Tariff. Storage co-located with generation behind the same PCC shall not be eligible for service under this Tariff. Electric vehicle charging of any kind is not eligible for service under this Tariff.
- 2.3 The Customer shall, at all times that it takes service under this Tariff and the WDSA, at its own expense, be responsible for
- (i) purchasing the wholesale energy being distributed to the Wholesale Charging Load, including allowances for losses;
 - (ii) arranging for transmission and ancillary services, if required by the ISO-NE Tariff, for the delivery of said energy to the Company’s Distribution System; and
 - (iii) arranging for state-jurisdictional retail service to serve its Station Service Load.

3. Obligations of the Customer

- 3.1 Subject to the terms and conditions of this Tariff, the Company will provide Wholesale Distribution Service to any eligible Customer, provided that
- (i) the Customer owns an ESS that is connected to the Company’s Distribution System and meets the eligibility criteria described above;
 - (ii) the Customer meets the creditworthiness criteria set forth in Section 4;

- (iii) the Customer agrees to pay for any facilities pursuant to its ISA; and
- (iv) the Customer executes a WDSA for service under this WDT or requests in writing that the Company file a proposed unexecuted WDSA with FERC.

4. Creditworthiness

- 4.1 For the purpose of determining the ability of the Customer to meet its obligations related to service hereunder, the Company may require credit review procedures consistent with the ISO-NE Tariff, Schedule 21-FG&E, Local Service Schedule, Attachment L, Creditworthiness Policy.

5. Process for Obtaining WDS

- 5.1 A new or existing Customer may receive service under this Tariff at its request if the Customer demonstrates that it meets the criteria as described in this Tariff. A new customer seeking to receive service under this Tariff must demonstrate alignment with the criteria prior to receiving permission to operate, with the exception of demonstrating registration as an Energy Storage Facility with ISO-NE, which may be demonstrated up to 60 days after commencing service; otherwise such customer will be enrolled in the applicable retail rate until eligibility for WDS is demonstrated.
- 5.2 An eligible Customer requesting interconnection of an ESS to the Company's Distribution System shall comply with the Standards for Interconnection of Distributed Generation (M.D.P.U. No. 452) and the Terms and Conditions for Distribution Service (M.D.P.U. No. 437), as each may be in effect from time to time.
- 5.3 An eligible Customer requesting service under this Tariff must submit an application to the Company as far as possible in advance of the month in which service is to commence. The Company may provide for an abbreviated application procedure when a Customer requests that an existing distribution service be converted to Wholesale Distribution Service under this Tariff. Completed applications should be submitted electronically to the Company. These methods will provide a date-stamped record for establishing the priority of the application. A completed application shall provide all applicable information required to evaluate a request for WDS, including but not limited to the following:
 - (i) The identity, address, telephone number and e-mail of the party requesting service;
 - (ii) A statement that the party requesting service is, or will be upon commencement of service, a Customer under the Tariff;
 - (iii) The location of the PCC;
 - (iv) A description of the Customer's ESS;

- (v) A description of all loads that will be located at the facility, sufficient to demonstrate that on-site ESS Charging Energy and Station Service loads comply with the availability conditions of the Tariff.
- (vi) A one-line diagram of all electrical equipment located at the Customer facility;
- (vii) A written demonstration that the Customer will have the necessary contractual arrangements or existing contracts in place to receive transmission service over the ISO-NE grid prior to the commencement of WDS under the Tariff;
- (viii) A written demonstration that the Customer meets ISO-NE's criteria for qualifying as an Energy Storage Facility, as described in the ISO-NE Tariff;
- (ix) The service commencement date and the term of the requested WDS; and
- (x) Such other information the Company reasonably requires to process the application.

Unless the parties agree to a different time frame, the Company must acknowledge the application within ten (10) days of receipt. The acknowledgment must include a date by which a response, including a WDSA, will be sent to the Customer. If an application fails to meet the requirements of this section, the Company shall notify the Customer requesting service within fifteen (15) days of receipt and specify the reasons for such failure.

Wherever possible, the Company will attempt to remedy deficiencies in the application through informal communications with the Customer. If such efforts are unsuccessful, the Company shall return the application to the Customer. The Company shall treat all information provided by the Customer consistent with the standards of conduct contained in Part 37 of FERC's regulations.

- 5.4 Failure of a Customer eligible for WDS to execute and return the WDSA or request the filing of an unexecuted WDSA pursuant to Section 3.1(iv) of this Tariff within fifteen (15) days after it is tendered by the Company, will be deemed a withdrawal and termination of the application and any deposit submitted shall be refunded with interest. Nothing herein limits the right of a Customer to file another application after such withdrawal and termination.
- 5.5 Either prior to the commencement of WDS or within sixty (60) days after such commencement, the Customer shall provide the Company with written evidence of the facility's registration with ISO-NE as an Energy Storage Facility. A customer that fails to provide such evidence within the required period will be enrolled in the applicable retail rate until evidence of registration is provided.

6. Metering

- 6.1 Each ESS must meet the applicable metering standards approved by the MDPU in the Company's Standards for Interconnection of Distributed Generation (M.D.P.U. 452, as amended from time to time), as well as metering requirements necessary to qualify with ISO-NE as an Energy Storage Facility and to meet the availability conditions of this Tariff. For facilities with Charging Load and Station Service behind one PCC, a minimum of two meters is required, with one meter at the PCC ("PCC meter") and a second meter positioned electrically in series behind the PCC meter and measuring only Charging Load. The Company may require a dedicated Station Service meter. In order for the Customer to receive WDS for Critical Service Load, the supply to the Critical Service Load must be behind the ESS meter, or it must be separately metered. Customers shall be responsible for the costs incurred by Company for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment, in accordance with applicable state tariffs.
- 6.2 A properly identified and authorized representative of the Company shall have the right to gain access at all reasonable times and intervals for the purpose of reading, installing, examining, testing, repairing, replacing, or removing the Company's meters, meter reading devices, wires, or other electrical equipment and appliances, or of discontinuing service, in accordance with the applicable Massachusetts General Laws and MDPU regulations, and Company policy, in effect from time to time and the Customer shall not prevent or hinder the Company's access.
- 6.3 If a customer receives unmetered service as the result of any tampering with the meter or other Company equipment, the Company shall take appropriate corrective action including, but not limited to, making changes in the meter or other equipment and rebilling the Customer. The Customer may be held responsible to the Company for any use of electricity that occurs beyond the point of meter installation.

7. Rates and Charges

- 7.1 The Monthly WDS Charge = Customer Charge + Monthly Demand Charge.
- 7.2 Customer Charge = \$19.71/month.
- 7.3 Monthly Demand Charge = Demand Charge Peak + Demand Charge Mid-Peak + Demand Charge Off-Peak
- 7.3.1 Demand Charges:
- Demand Charge Peak = Demand Rate Peak * the maximum demand (kW) consumed during the Peak period of the billing month

Demand Charge Mid-Peak = Demand Rate Mid-Peak * the maximum demand (kW) consumed during the Mid-Peak period of the billing month

Demand Charge Off-Peak = Demand Rate Off-Peak * the maximum demand (kW) consumed during the Off-Peak period of the billing month

Where:

Demand Rates Primary (for voltages greater than or equal to 2,400 volts)	Rate (\$/kW- Month)	Applicable Hours
Demand Rate Peak	\$8.50	Weekdays: 1:00 p.m. – 8:00 p.m.
Demand Rate Mid-Peak	\$1.61	Weekdays: 10:00 a.m. – 1:00 p.m.; 8:00 p.m. – 10:00 p.m. Weekends and Holidays: 1:00 p.m. – 8:00 p.m.
Demand Rate Off-Peak	\$0.14	All Other Hours - Weekdays: 12:00 a.m. to 10:00 a.m.; 10 pm to 12:00 a.m. Weekends and Holidays: 12:00 a.m. to 1:00 pm; 8:00 pm to 12:00 a.m.

Demand Rates Secondary (for voltages less than 2,400 volts)	Rate (\$/kW- Month)	Applicable Hours
Demand Rate Peak	\$9.04	Weekdays: 1:00 p.m. – 8:00 p.m.
Demand Rate Mid-Peak	\$1.71	Weekdays: 10:00 a.m. – 1:00 p.m.; 8:00 p.m. – 10:00 p.m. Weekends and Holidays: 1:00 p.m. – 8:00 p.m.
Demand Rate Off-Peak	\$0.15	All Other Hours -

Demand Rates Secondary (for voltages less than 2,400 volts)	Rate (\$/kW- Month)	Applicable Hours
		Weekdays: 12:00 a.m. to 10:00 a.m.; 10 pm to 12:00 a.m. Weekends and Holidays: 12:00 a.m. to 1:00 pm; 8:00 pm to 12:00 a.m.

Note: All times are prevailing time. Weekdays are Monday-Friday; Weekends are Saturday and Sunday; Holidays are New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

- 7.4 If the Customer fails to respond to established emergency load shedding and curtailment procedures to relieve emergencies on the Distribution System and energy is delivered to its Wholesale Charging Load, the Customer shall pay, in addition to any other charges for service hereunder, a penalty charge equal to two times the Monthly Demand Charge for each occurrence in the month in which such failure to respond occurred and/or the Company may disconnect the ESS.

8. Billing and Payment

- 8.1 Bills will be rendered once each billing period, defined as the time period between two consecutive monthly meter readings or estimates of such monthly meter readings. The standard billing period is thirty (30) days. In the event that a period between bills is less than twenty-six (26) days or more than thirty-four (34) days, billing will be prorated by the Company to reflect a thirty (30) day billing period. The invoice shall be paid by the Customer within twenty-five (25) days of receipt. If delivery is through more than one meter, the Monthly WDS Charge for service through each meter shall be computed separately under this rate, except at the Company's option.
- 8.2 Interest on any unpaid amounts (including amounts placed in escrow) shall be calculated in accordance with the methodology specified for interest on refunds in the Commission's regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Interest on delinquent amounts shall be calculated from the due date of the bill to the date of payment. When payments are made by mail, bills shall be considered as having been paid on the date of receipt by the Company.
- 8.3 In the event the Customer failed, for any reason other than a billing dispute as described below, to make payment to the Company on or before the due date as described in Section 8.1 above, and such failure of payment is not corrected within thirty (30) calendar days after the Company notifies the Customer to cure such failure, a default by the Customer shall be deemed to exist. Upon the

occurrence of a default, the Company may initiate a proceeding with FERC to terminate service but shall not terminate service until FERC so accepts any such termination request.

- 8.4 In the event of a billing dispute between the Company and the Customer, the Company will continue to provide service under this WDT as long as the Customer (i) continues to make all payments not in dispute, and (ii) pays into an independent escrow account (established in accordance with a mutually agreed upon escrow agreement) the portion of the invoice in dispute, pending resolution of such dispute. If the Customer fails to meet these two requirements for continuation of service, then the Company may provide notice to the Customer of its intention to suspend service in sixty (60) days, in accordance with Commission policy. Upon final resolution of the dispute, in accordance with procedures set forth in Section 12 of this Tariff, if a refund is due to either Party, the Company or the Customer, as appropriate, shall make such refund in accordance with Section 8.2 and within ten (10) business days of such resolution.

9. Characteristics of WDS

9.1 Company Responsibilities.

The Company will plan, construct, operate and maintain its Distribution System in accordance with Good Utility Practice in order to provide the Customer with WDS over the Company's Distribution System to deliver energy to Wholesale Charging Load. The Company shall include the Customer's Wholesale Charging Load in its Distribution System planning and shall, consistent with Good Utility Practice, endeavor to construct and place into service sufficient Distribution System facilities to deliver the Customer's power to serve its Wholesale Charging Load on a basis comparable to the Company's delivery of power to Company's retail customers, subject to the operational parameters, if any, set forth in the ISA.

9.2 Self Service of Station Load.

ESS facilities may also discharge stored Charging Energy purchased under Wholesale Distribution Service to serve qualified Station Service loads, as defined in the Company's technical standards and associated with Standalone facilities, if such loads are located behind the same PCC as the ESS facility. Any energy for Station Service that is procured directly from the Company's distribution system (i.e., not served through energy discharged from the ESS) will be billed at the applicable retail rate.

9.3 Load Shedding and Curtailment of WDS.

In addition to the Company's ability to disconnect for Customer's failure to pay an invoice in Section 8.3 above, Customers under this Tariff shall be subject to the procedures for disconnection, load reduction, and curtailment as approved by the MDPU in the Company's Standards for the Interconnection of Distributed

Generation (M.D.P.U. No. 452) and any applicable tariffs that may be approved by the MDPU and amended from time to time.

9.4 Scheduling of WDS.

Separate schedules for WDS shall not be required under this Tariff. In transmission schedules submitted to the ISO-NE, the Customer shall include its Wholesale Charging Load, only if required to do so under the ISO-NE Tariff.

9.5 Conflict With ISO-NE Tariff.

If a Customer identifies a conflict between this Tariff and the ISO-NE Tariff, the Company and the Customer shall make good-faith efforts to resolve the conflict. If the Parties are unable to informally resolve the conflict, the Parties may use the Dispute Resolution Procedures set forth in Section 12 of this Tariff.

9.6 Conflicting Operating Instructions.

In the event a Customer receives conflicting operating instructions from the ISO-NE or the Company, the Customer shall adhere first to the conditions of its ISA with the Company and applicable tariffs approved by the MDPU. Otherwise, the Customer shall adhere to applicable ISO-NE Tariff provisions and follow the ISO-NE's instructions. In no event shall a Customer be required to follow operating instructions from the ISO-NE if following those instructions would knowingly jeopardize human safety including by jeopardizing the safety and reliability of the Company's electric distribution system through violation of the Customer's ISA.

The Company shall not be liable for money damages or other compensation to the Customer for issuing an operating instruction that overrides an ISO dispatch order or operating instruction unless the Company's action has been found to result from its gross negligence or willful misconduct.

10. Term

Unless the WDSA is terminated for cause under this Tariff or as agreed to by the Parties, the WDSA will remain co-terminus with the ISA.

11. Force Majeure

- 11.1 Neither the Company nor the Customer will be considered in default as to any obligation under this Tariff if prevented from fulfilling the obligation due to an event of Force Majeure; provided that no event of Force Majeure affecting either Party shall excuse that Party from making payment that it is obligated to make hereunder. However, a Party whose performance under this Tariff is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this Tariff, and shall promptly notify the other Party of the commencement and end of each event of Force Majeure.

12. Dispute Resolution Procedures

12.1 Internal Dispute Resolution Procedures

Any dispute between a Customer and the Company involving WDS under this Tariff (excluding applications for service terminations under Section 8.3 herein or rate changes or other changes to this Tariff, or to any WDSA entered into under this Tariff, which shall be presented directly to FERC for resolution) shall be referred to a designated senior representative of the Company and a senior representative of the Customer 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 by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.

12.2 External Arbitration Procedures

Any arbitration initiated under this WDT shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) days of the referral of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including WDS matters, and shall not have any current or past substantial business or financial relationships with any Party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and any applicable Commission regulations or ISO-NE rules.

12.3 Arbitration Decisions

Unless otherwise agreed, the arbitrator(s) shall render a decision within ninety (90) days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this WDT and any WDSA entered into under this WDT and shall have no power to modify or change any of the above in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of this Tariff and the WDSA, (iii) applicable United States federal law, including the Federal Power Act and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. The final decision of the arbitrator must also be filed with the Commission if it affects jurisdictional rates, terms and conditions of service or facilities.

12.4 Costs

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable:

- (a) the cost of the arbitrator chosen by the Party to sit on the three-member panel and one half of the cost of the third arbitrator chosen; or
- (b) one half the cost of the single arbitrator jointly chosen by the Parties.

12.5 Rights Under The Federal Power Act

Nothing in this section shall restrict the rights of any Party to file a complaint with the Commission under relevant provisions of the Federal Power Act.

13. Limitation of Liability

- 13.1 The Company shall not be liable for money damages or other compensation to the Customer for actions or omissions by the Company in performing its obligations under this Tariff or the WDSA, except to the extent such act or omission by the Company is found to result from its gross negligence or willful misconduct. To the extent the Customer alleges claims against the Company, the Customer may only look to the assets of the Company for the enforcement of such claims and may not seek to enforce any claims against the directors, members, shareholders, officers, employees or agents of the Company or affiliate of either who, the Customer acknowledges and agrees, have no personal or other liability for obligations of the Company by reason of their status as directors, members, shareholders, officers, employees or agents of the Company or affiliate of either.
- 13.2 In no event shall either Party, their respective officers, directors, employees, agents, successors or assigns or their affiliates or any of their respective officers, directors, employees, agents, successors or assigns be liable to the other Party for any incidental, consequential, multiple or punitive damages, loss of revenues or profits, attorneys fees or costs arising out of, or connected in any way with performance or nonperformance of this Tariff or the WDSA.
- 13.3 The provisions of this Section shall survive termination, cancellation, suspension, completion or expiration of this Tariff or the WDSA.

14. Indemnification

- 14.1 The Customer shall at all times indemnify, defend, and save the Company, its directors, officers, members, employees, agents, successors and assigns from any and all damages, losses, claims and liabilities by or to third parties arising out of or resulting from the performance by the Company hereunder, any bankruptcy filings made by the Customer, or the actions or omissions of the Customer in connection with this Tariff and the WDSA, except in the case of gross negligence or willful misconduct by the Company, its directors, officers, members,

employees or agents. The amount of any indemnity payment hereunder shall be reduced (including, without limitation, retroactively) by any insurance proceeds or other amounts recovered by the indemnified party in respect of the indemnified action, claim, demand, cost, damage or liability.

15. Corporate Act and Obligation

- 15.1 This Tariff and the WDSA are the corporate act and obligation of the Customer and the Company and shall be binding upon and shall inure to the benefit of the Parties hereto and their successors and assigns. Any claim hereunder against any stockholder, director, officer, or member of the board of either Party, in such capacity, is expressly waived.

16. Assignment

- 16.1 No assignment by either Party of its rights and obligations hereunder shall be made or become effective without the prior written consent of the other Party in each case being obtained, which consent shall not be unreasonably withheld or delayed, except that the WDSA may be assigned without such consent to an affiliate or successor of either Party, or to a person acquiring all or a controlling interest in the business assets of such Party. No assignment or transfer of rights shall relieve the assigning Party from full liability and financial responsibility for performance unless both the assignee or transferee and the other Party have so consented in writing, said consent not to be unreasonably withheld.

17. Regulatory Filings

- 17.1 Nothing contained in the Tariff or any WSFA thereunder shall be construed as affecting in any way the right of the Company to unilaterally make application to the Commission for a change in rates, terms and conditions, charges, classification of service, Service Agreement, rule or regulation under Section 205 of the Federal Power Act and pursuant to the Commission's rules and regulations promulgated thereunder.
- 17.2 Nothing contained in the Tariff or any WDSA thereunder shall be construed as affecting in any way the ability of any Customer receiving service under the Tariff to exercise its rights under the Federal Power Act and pursuant to the Commission's rules and regulations promulgated thereunder.
- 17.3 The standard of review that shall apply in any proceeding initiated by either Party or FERC acting *sua sponte* which could result in a change in the rates, terms or conditions of this WDT shall be the ordinary "just and reasonable" standard of review, and not the higher "public interest" standard. Any Party that files any application under Sections 205 or 206 shall provide notice to the other Party of such filing.

18. Governing Law

- 18.1 Except as otherwise provided by federal law, this Tariff and the WDSA shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

19. Miscellaneous

- 19.1 Notices. Any notice, request, demand or statement required to be given by either Party to the other in connection with the WDT or a WDSA shall be given in writing and shall be sent by email (read receipt requested), registered or certified mail (return receipt requested and postage prepaid), by hand delivery, or by overnight delivery, with acknowledged receipt of delivery. Notice shall be deemed given at the date of acceptance or refusal of acceptance shown on such receipt.

Any notice, request or demand pertaining to matters of an operating nature, which matters do not include requests for additional WDS or modified WDS under the WDT or the WDSA, may be served in person or by United States mail, messenger, telephone, email, or orally, as circumstances dictate, to the person designated in writing by the Party as its representative for such purposes as identified in the WDSA; provided that should the same not be written, confirmation thereof shall be made in writing as soon as reasonably practicable thereafter, upon request of the Party being served.

- 19.2 Headings. The descriptive headings of the various sections of this Tariff have been inserted for convenience of reference only and shall in no way define, modify or restrict any of the terms and provisions thereof.
- 19.3 Other Instruments. From time to time after the execution of the WDSA, the Parties may execute such instruments, upon the request of the other, as may be necessary or appropriate, to carry out the intent of this Tariff and the WDSA.
- 19.4 Severability. Any provision of this WDT or the Customer's WDSA rendered unlawful by a court of law or regulatory agency with jurisdiction will not otherwise affect the lawful obligations under this Tariff and the Customer's WDSA.
- 19.5 Third-Party Beneficiaries. This WDT and WDSA are not intended to and shall not create rights of any character whatsoever in favor of any person, corporation, association, or entity other than the Parties, and the rights and obligations herein assumed are solely for the use and benefit of the Parties.
- 19.6 No Dedication. Any undertaking by one Party to the other under any provisions of this Tariff and the WDSA shall not constitute the dedication of the electric system, or any portion thereof, of any Party to the public or to the other Party, and it is understood and agreed that any such undertaking by any Party shall cease upon termination of the Agreement.

- 19.7 Prior Agreements: By execution of a WDSA accepting the provision of WDS under the terms and conditions set forth in this Tariff, the Parties intend for the WDT and WDSA to replace and supersede all current or prior agreements for WDS.
- 19.8 Entire Agreement. Subject to the preceding Paragraph, the WDT and WDSA supersede all prior agreements, discussion, communications, and correspondence for WDS between Company and Customer, and any of their predecessors, and represent the entire understanding between Company and Customer.
- 19.9 Interpretation. For the purpose of interpreting this Tariff and the WDSA, to the extent that there exists any conflict between the provisions of this Agreement and the provisions of the ISO-NE Tariff, the provisions of this Tariff and WDSA shall prevail.
- 19.10 Breach: Company may terminate Customer's WDSA upon breach by Customer of any material term of this WDT after ninety (90) days written notice to Customer unless Customer cures its breach within that period. If the breach is not cured in thirty (30) days after a notice of breach, the Company may initiate a proceeding with FERC to terminate service but shall not terminate service until FERC so accepts any such termination request.