



***Appendix B-4***

***Term Sheet  
for Limited-Term RFP PPAs and Tolls***

***For***

***2015 Request for Proposals***

***For***

***Long-Term Combined-Cycle Gas Turbine  
Capacity and Energy Resources and  
Limited Term Capacity and Energy  
Resources***

***For***

***Entergy Texas, Inc.***

Entergy Services, Inc.

June 26, 2015

## Term Sheet for Limited-Term RFP PPAs and Tolls

This Term Sheet (“Term Sheet”) generally describes certain terms and conditions of a potential agreement between ETI or its designee (“Buyer”) and Seller (together with Buyer, the “Parties”) for the purchase by Buyer of limited-term Capacity, energy, Other Electric Products (including capacity-related benefits, such as Capacity Credits, and ancillary services), and Environmental Attributes pursuant to a proposal for a PPA or Toll submitted by Bidder on behalf of Seller and selected by Buyer with respect to the Limited-Term RFP in the 2015 ETI RFP (such agreement, if negotiated and executed by the Parties, the “Definitive Agreement”). Buyer will provide the initial draft of the Definitive Agreement at the beginning of the negotiations. For informational purposes only and subject to the disclaimer at the end of this Term Sheet, Bidders offering proposals into the Limited-Term RFP may wish to review the Term Sheets for Long-Term RFP PPAs and Tolls set forth in Appendices B-1 and B-2 of the RFP, respectively, for further detail regarding commercial terms therein that are similar to certain terms set forth herein and for information regarding additional terms that could be included in a Definitive Agreement for a Limited-Term RFP PPA or Toll.

Proposal Term	Description of Proposal Term
<b>Buyer:</b>	Buyer will be considered an entity entirely separate and distinct from any Balancing Authority or transmission organization owned, controlled, operated, or managed by ETI or an Affiliate thereof.
<b>Facility:</b>	The “ <u>Facility</u> ” will be the electric generation facility specified in the proposal giving rise to the Definitive Agreement (“ <u>Transaction Proposal</u> ”) as the facility for the Definitive Agreement.
<b>Market Participant:</b>	Subject to certain limitations, throughout the term of the Definitive Agreement, Buyer will have the right to determine from time to time whether Buyer (or a designee of Buyer) or Seller will serve as the market participant or other representative for the Facility (or, if applicable, the portion of the Facility that constitutes Contract Capacity (defined below)) before MISO or, in the event ETI is not subject to the MISO Balancing Authority, the largest Balancing Authority to which ETI is then subject (“ <u>Replacement BA</u> ”) with respect to any planning period of MISO or any Replacement BA during the Delivery Term (defined below) (“ <u>Market Participant</u> ”).
<b>Delivery Term:</b>	The “ <u>Delivery Term</u> ” will be the contractual period of time for the purchase and sale of products and services under the Definitive Agreement. The Delivery Term is expected to be the Delivery Term specified in the Transaction Proposal. Subject to satisfaction or waiver of applicable conditions precedent and other applicable terms of the Definitive Agreement, the Delivery Term will commence at the start of hour ending 0100 on the first day of the Delivery Term and continue through the end of hour ending 2400 on the last day of the Delivery Term. As indicated in the RFP, Buyer prefers that the Delivery Term start at the beginning of the planning period recognized by the applicable Balancing Authority (June 1 under the current MISO Rules).

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<p><b>Commercial Operation:</b></p>	<p><i>{For Developmental Resources}</i> If the Definitive Agreement is based on a Developmental Resource, in the event Seller does not achieve commercial operation by the guaranteed commercial operation date (as may be extended by force majeure, up to a maximum of 180 days, the “<u>Guaranteed COD</u>”), Seller will be subject to, among other things, delay damages, potential capacity re-sizing and “buy-downs” required by Buyer, and, for extended delays, potential termination of the Definitive Agreement. The Guaranteed COD is expected to be the Guaranteed COD specified in the Transaction Proposal. The definition of commercial operation will be specified in the Definitive Agreement, but, in general, will require, among other things, that the Facility have achieved substantial completion, satisfied certain performance tests, and be available for normal continuous operation; that the interconnection, metering, telemetry, and certain other equipment and systems be installed, tested, and properly working; and that Seller be in compliance with the Definitive Agreement and ancillary/project agreements, have in full force and effect all required permits, authorizations, waivers, and agreements, have in place certain accounts and registrations, have provided to Buyer all required credit support and evidence of insurance coverage, made all arrangements for the supply of required electric services and other utilities to the Facility, and completed staffing and required training of Seller’s personnel and representatives. The Definitive Agreement will include a project schedule with numerous milestones. Seller will be required to provide to Buyer periodic progress reports and inspection and other rights related to the period of time before commercial operation is achieved.</p>
<p><b>Contract Capacity:</b></p>	<p>“<u>Contract Capacity</u>” means the entire capacity of the Facility or, in the event the Transaction Proposal allocates to Buyer a portion of the capacity of the Facility, the portion of such capacity allocated to Buyer. For Tolls and certain PPAs, the Contract Capacity will fluctuate from time to time due to variations in ambient conditions. The Contract Capacity includes Dependable Capacity (defined below) and, accordingly, may never be less than the Dependable Capacity. (As indicated in the RFP, Buyer may be allocated as Contract Capacity less than all of the capacity of the Facility, provided that, with respect to any Toll, Buyer is allocated as Contract Capacity a portion of the capacity of the Facility in increments of whole generating units at the Facility recognized as such by MISO or, if applicable, the Replacement BA (such portion of the Facility allocated to Buyer, the “<u>Applicable Portion</u>”).) If the Transaction Proposal allocates as Contract Capacity to Buyer less than all of the capacity of the Facility, the Definitive Agreement (and/or one or more other agreements between the Buyer and Seller) will address the issues associated with such an arrangement (e.g., prioritization, allocation of common facilities and related costs (including, if applicable, fuel), registration, reporting, scheduling, offering, bidding, tagging (if applicable), metering, settlement, future facility modifications).</p>
<p><b>Dependable</b></p>	<p>“<u>Dependable Capacity</u>” means the net MW that the Facility or, in the event the</p>

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<b>Capacity:</b>	<p>Transaction Proposal allocates to Buyer a portion of the capacity of the Facility, the portion of such capacity allocated to Buyer is capable of delivering reliably to Buyer at the Physical Delivery Point (defined below). During any period when Buyer is subject to the MISO Balancing Authority, the amount of the Dependable Capacity will be the installed capacity, or “ICAP,” value assigned by MISO to the Facility or, in the event the Transaction Proposal allocates to Buyer a portion of the capacity of the Facility, the portion of such capacity allocated to Buyer. For purposes of the Capacity Payment Discount (defined below), the “availability” of a resource for any period during the Delivery Term will be a function of the availability of the Dependable Capacity over such period (see “Availability Requirements”).</p>
<b>Recognized Capacity:</b>	<p>“<u>Recognized Capacity</u>” means, for any planning period of MISO or any Replacement BA, the unforced capacity, or “UCAP,” value assigned from time to time to the Contract Capacity by MISO or, in the event that (i) Buyer is subject to a Balancing Authority other than MISO that provides, allocates, or assigns Capacity Credits or other capacity-related benefits in respect of the Contract Capacity or (ii) MISO uses a methodology other than UCAP, the capacity recognized and used by such Balancing Authority or MISO, as the case may be, to establish the amount of Capacity Credits or other capacity-related benefits to be provided, allocated, or assigned with respect to the Dependable Capacity for such planning period, in each case, adjusted for losses to the Physical Delivery Point. For purposes of the Definitive Agreement, the Recognized Capacity may never exceed the Dependable Capacity. The Capacity Payment (defined below) for any month in the Delivery Term will be a function, in part, of the Recognized Capacity for such month. To the extent that Seller or Buyer is required by applicable laws (including MISO Rules) to demonstrate the capability of, or otherwise test, the Facility or the Applicable Portion for purposes of capacity qualification, the establishment of Capacity Credits or other capacity-related benefits, or ICAP or UCAP values, or for any other purpose, Seller will perform such tests (including any deliverability tests and capability tests) according to applicable requirements. Buyer will have rights to demonstrate the capability of, or otherwise test, the Facility or the Applicable Portion as set forth in the Definitive Agreement.</p> <p>In the event that, for any planning period (or portion thereof) applicable to Buyer under the resource adequacy (or equivalent) laws applicable to Buyer that occurs during the Delivery Term, the Recognized Capacity for the Dependable Capacity is less than the Minimum UCAP Requirement and/or Seller does not obtain and provide to Buyer, for such planning period (or portion thereof), the Capacity Credits and other capacity-related benefits that could have been provided to Buyer if such Recognized Capacity met or exceeded the Minimum UCAP Requirement, Seller will pay to Buyer, for such planning period (or portion thereof) in which there is a shortfall from the</p>

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	<p>Minimum UCAP Requirement, an amount equal to (i) the greater of (a) the revenues per MW that would have been obtained at the MISO capacity auction for the applicable planning period (or portion thereof) for the shortfall capacity-related benefits, measured at the auction clearing price that would have been applicable to such capacity-related benefits under such auction, or (b) if the resource adequacy (or equivalent) laws applicable to Buyer establish a “capacity deficiency charge” or equivalent concept, the “capacity deficiency charge” per MW for the zone in which the Electric Interconnection Point is located (or equivalent concept) for the applicable planning period (or portion thereof), as established under the resource adequacy (or equivalent) laws applicable to Buyer, multiplied by (ii) the amount of the shortfall (expressed in MW). For purposes of this paragraph, the “<u>Minimum UCAP Requirement</u>” is (x) for CCGT resources, is 96% of the Dependable Capacity, (y) for CT resources, 94% of the Dependable Capacity, and (z) for solid fuel resources (including biomass), 92% of the Dependable Capacity.</p>
<p><b>Delivery Points:</b></p>	<p>The “<u>Energy Delivery Point</u>” is the Physical Delivery Point (defined below) for physical deliveries under the Definitive Agreement or the Financial Delivery Point (defined below) for financial transfers to Buyer under the Definitive Agreement, as the context requires, and the plural of Energy Delivery Point is both the Physical Delivery Point and Financial Delivery Point.</p> <p>The “<u>Physical Delivery Point</u>” is the point at which Contract Capacity and associated capacity-related benefits will be made available, and energy and Other Electric Products (to the extent capable of being physically delivered) will be physically delivered. The Physical Delivery Point is expected to be the CP Node in MISO designated by Seller in its Transaction Proposal and one in the same as the Electric Interconnection Point (defined below).</p> <p>The “<u>Financial Delivery Point</u>” is the CP Node recognized by MISO as the CP Node for ETI’s native electric load (or the equivalent thereof recognized by the Replacement BA or, if there is no such equivalent, the point of delivery designated by Buyer). As of the issuance date of the RFP, the current Financial Delivery Point is the EES.ETILD CP Node.</p> <p>Contract Capacity, capacity-related benefits, energy, and Other Electric Products (to the extent capable of being physically delivered) delivered at the Physical Delivery Point will be transferred, to the extent possible, by Seller, at Seller’s expense, to Buyer at the Financial Delivery Point through a financial transaction or adjustments in billing statements..</p>
<p><b>Electric Interconnection Point:</b></p>	<p>The “<u>Electric Interconnection Point</u>” will be the point described or indicated as such in the electric interconnection agreement for the Facility and the Transaction Proposal (and represented by a CP Node).</p>

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<b>Interconnection, Deliverability, and Transmission Service:</b>	<p>Seller will be responsible for (and bear the full costs and risks of) the arrangement, procurement, receipt and maintenance prior to and throughout the Delivery Term of the interconnection, deliverability, and transmission service required for the Facility, including (i) the electric interconnection of the Facility to the host utility and establishment of the Electric Interconnection Point, (ii) the transfer and delivery of Capacity, energy, and Other Electric Products to, and the injection of energy and Other Electric Products at, the Electric Interconnection Point, and (iii) the financial settlement of energy and Other Electric Products provided to Buyer under the Definitive Agreement at the Financial Delivery Point. Without limiting the foregoing, Seller will bear (a) all related interconnection, deliverability, or transmission request, application, study, registration, and comparable fees, charges, or costs, (b) all upgrade, improvement, and other fees, charges, and costs arising out of the requested interconnection, deliverability, or transmission service, except to the extent stated to be the exclusive responsibility of the host utility or an applicable transmission provider, transmission owner, or Balancing Authority under the applicable tariffs, rules, regulations, or requirements of, or generator interconnection or other agreements with, the host utility or such transmission provider, transmission owner, or Balancing Authority), (c) the fees, charges, and costs to receive interconnection, deliverability, transmission, or financial settlement service, (d) all transformer, line, energy, capacity, and other losses or costs related to the interconnection, deliverability, transmission, or financial settlement service with respect to the Facility,, and (e) all costs assigned or allocated to Seller or to a financially settling party under the applicable tariffs, rules, regulations, or requirements of, or agreements with, the host utility, transmission provider, transmission owner, or any applicable Balancing Authority. As part of its responsibilities under this section, Seller will be required to obtain energy resource interconnection service (ERIS) and network resource interconnection service (NRIS) from MISO under the MISO OATT (or the equivalent service in the event MISO discontinues or modifies ERIS or NRIS or both, as applicable) in a quantity (a) with respect to ERIS, sufficient for the maximum generation capability of the Facility and (b) with respect to NRIS, (x) sufficient to allow the Facility to receive the maximum capacity credits a resource of its capacity size can receive under the MISO rules (for Transaction Proposals offering the entire capacity of the Facility) or (y) that can and will be allocated and prioritized such that the NRIS level associated with the Allocated Portion cannot limit the amount of Capacity Credits that Buyer would receive for any planning period during the delivery term (for Transaction Proposals offering an Allocated Portion). Seller will be responsible for any cost or price basis differential (including any transmission-related loss) at any time during the Delivery Term from the Facility to and including the Physical Delivery Point and from the Physical Delivery Point to the Financial Delivery Point.</p>
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<b>Availability and Availability Requirements:</b>	<p>Seller will make available to Buyer all of the Contract Capacity and capacity-related benefits and will deliver all associated energy and Other Electric Products at the Physical Delivery Point in accordance with Buyer's dispatch notices. Except to the extent required by a unit contingency, Seller will not interrupt, curtail, or otherwise reduce the availability or deliveries of Contract Capacity, or any associated energy or Other Electric Product, even if Seller is otherwise above the availability requirements set forth in the Definitive Agreement. In addition, to the extent the Facility or the Applicable Portion, as applicable, is capable, from time to time, of reduced operating restrictions (including, without limitation, reduced minimum permitted dispatch levels and start times and increased ramp rates), Seller will make available such capability to Buyer.</p> <p><i>{For CCGT resources}</i> During the Delivery Term, (i) each month the Dependable Capacity will be required to have a monthly availability percentage of at least (a) for a month that is a summer month (June-August), 98%; (b) for a month that is a winter month, (December-February), 98%; and (c) for all other months, 96%, and (ii) each rolling 12-month period [shorter periods will apply during the first year of the Definitive Term], the Dependable Capacity will be required to have an availability percentage over such period of at least 85%.</p> <p><i>{For solid fuel resources (including biomass)}</i> During the Delivery Term, (i) each month the Dependable Capacity is expected to be established based on the technology utilized and/or the minimum monthly capacity availability requirement(s) specified in the Transaction Proposal and consistent with monthly availability percentages for similar baseload resources (expected to be in the range of 90-95%) and (ii) each rolling 12-month period [shorter periods will apply during the first year of the Definitive Term], the Dependable Capacity will be required to be at least a percentage that is expected to be established based on the technology utilized and/or the minimum monthly capacity availability requirement(s) specified in the Transaction Proposal and is consistent with 12-month availability percentages for similar baseload resources.</p> <p><i>{For CT resources}</i> During the Delivery Term, (i) each month the Dependable Capacity will be required to have a monthly availability percentage of at least 99% and (ii) each rolling 12-month period [shorter periods will apply during the first year of the Definitive Term], the Dependable Capacity will be required to have an availability percentage over such period of at least 90%.</p> <p>The availability of Dependable Capacity will be determined for each hour of the Delivery Term and, subject to certain exceptions, will be based on the lower of (i) the actual availability of the Dependable Capacity and (ii) the Dependable</p>
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	<p>Capacity set forth (or, per the Definitive Agreement, deemed to be set forth) in Seller’s scheduling notice to Buyer, in each case relative to the contractually stipulated Dependable Capacity. For purposes of such availability determinations, the maximum availability of the Dependable Capacity in any hour will be 1.0 or 100%. In such determinations, Planned Maintenance (defined below) will be treated as an excused reduction in Dependable Capacity; however, as described in “Planned Maintenance,” the number of hours of Planned Maintenance that Seller is permitted to take in any Planned Maintenance outage period will be subject to a cap. <i>{Exclusively for Tolls}</i> A reduction in the hourly availability of the Dependable Capacity due solely to an interruption of gas transportation to the gas delivery point(s) will also be treated as an excused reduction in Dependable Capacity, except to the extent the interruption is due to force majeure or an act or omission, directly or indirectly, of Seller or its Affiliates.</p> <p>Seller’s failure to meet the monthly availability requirement will result in a Capacity Payment Discount (see below). Seller’s failure to meet the minimum rolling availability requirement will be an event of default of Seller and entitle Buyer to terminate the Definitive Agreement and receive termination damages arising out of any such termination.</p>
<p><b>Capacity Payment:</b></p>	<p>The “<u>Capacity Payment</u>” will be Buyer’s monthly payment to Seller for Contract Capacity. The Capacity Payment for any month will equal the capacity rate for such month multiplied by the Recognized Capacity for such month, will be payable to Seller monthly in arrears, and will be subject to a possible Capacity Payment Discount (see below). The capacity rate will be shaped [15% in the three summer months, 9% in May and September, 7% in the three winter months, and 4% in the four other months].</p>
<p><b>Capacity Payment Discount:</b></p>	<p>If the monthly availability for a month is below the applicable monthly availability requirement, a “<u>Capacity Payment Discount</u>” will apply to the Capacity Payment. Other than for CT resources, the Capacity Payment Discount will be two percent (2%) for each one percent (1%) shortfall to the monthly availability requirement, except to the extent of unavailability due solely to force majeure, for which the Capacity Payment Discount will be one percent (1%) for each one percent (1%) shortfall to the monthly availability requirement. For CT resources, the Capacity Payment Discount will be ten percent (10%) for each one percent (1%) shortfall to the monthly availability requirement, subject to the same force majeure exception set forth immediately above. In no event will the Capacity Payment Discount reduce the Capacity Payment below zero (0).</p>
<p><b>Capacity-Related Benefits and Environmental</b></p>	<p>Any current or future benefit associated with the Contract Capacity (e.g., Capacity Credits), and any current or future Environmental Attribute associated with the Contract Capacity, or the generation or transfer of energy or Other Electric Products from the Contract Capacity, including, without limitation, any</p>

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<b>Attributes:</b>	<p>Environmental Attribute related to the avoidance of the emission of any substance into the environment, will, in each case, exclusively accrue to and be owned by Buyer without any incremental amount or payment due from Buyer for such benefit or attribute. In the event any Capacity Credit or other capacity-related benefit is sourced from a resource not located within the Local Resource Zone of MISO that includes ETI’s service territory, (i) if the auction clearing price for such Capacity Credit or capacity-related benefit (“<u>Out-of-Zone ACP</u>”) is greater than the auction clearing price for a Capacity Credit or capacity-related benefit sourced from a resource located within the Local Resource Zone of MISO that includes ETI’s service territory (“<u>In-Zone ACP</u>”), Buyer will pay Seller the positive difference between the Out-of-Zone ACP and the In-Zone ACP and (ii) if the In-Zone ACP is greater than the Out-of-Zone ACP, Seller will pay Buyer the positive difference between the In-Zone ACP and the Out-of-Zone ACP. Seller will, at its sole cost and expense, initiate, qualify for, maintain, provide, and transfer to Buyer all such capacity-related benefits and Environmental Attributes.</p>
<b>Other Electric Products:</b>	<p>Seller will be required, at its sole cost and expense, to qualify the Facility or, if applicable, the Contract Capacity for, maintain, and (upon Buyer’s dispatch thereof pursuant to the Definitive Agreement) provide and/or transfer to Buyer at the Energy Delivery Points, any Other Electric Product capable of being provided from the Facility or, if applicable, the Contract Capacity.</p>
<b>Exclusivity; Buyer Dispatch Rights:</b>	<p>Except for the rights of MISO or, if applicable, a Replacement BA under applicable MISO Rules, Buyer’s rights to the Contract Capacity and associated capacity-related benefits, Environmental Attributes, energy, and Other Electric Products are exclusive. Throughout the Delivery Term, Buyer will have the right to dispatch or, if Seller is the Market Participant, to direct Seller to self-schedule and offer and to specify to Seller the terms of such self-schedule or offer (including modifying any existing dispatch notice, self-schedule, or offer), for each settlement interval of any operating day during the Delivery Term, the Capacity, energy, and Other Electric Products from the Contract Capacity or to which Buyer is entitled under the Definitive Agreement from time to time as it deems appropriate, subject to Buyer’s observance of any scheduling and operating restrictions specified in the Definitive Agreement and then in effect (e.g., scheduling notice deadlines and other scheduling and offering requirements or limitations, minimum permitted dispatch levels, minimum run times, start times and ramp rates). Seller will provide Buyer with scheduling and dispatch flexibility and rights under the Definitive Agreement substantially equivalent to those that Buyer would have if Buyer owned the Contract Capacity.</p>
<b>MISO Payments (Including Financial</b>	<p>Subject to certain exceptions specified in the Definitive Agreement, Buyer will be entitled to any payment from MISO or any other person for Capacity and capacity-related benefits, energy, and Other Electric Products from the Contract Capacity and to any other payment from MISO or any other Balancing</p>

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<b>Schedules):</b>	Authority with respect to the Contract Capacity (including the curtailment thereof). In the event that Buyer is not the Market Participant in respect of the Contract Capacity, Buyer may require that any transaction involving the transfer of Capacity, capacity-related benefits, energy, or Other Electric Products from the Contract Capacity that can be settled through financial schedules with MISO (or, if applicable, the Replacement BA through comparable instruments, means, or processes) settle with MISO through financial schedules (or with the Replacement BA through comparable instruments or means) prepared, submitted, and confirmed by Buyer and Seller.
<b>Costs/ Imbalances:</b>	<p>Subject to the remainder of this section of this Term Sheet, Seller will be responsible for all costs incurred in connection with the Facility, the conduct of Seller’s business, or the provision, delivery, or transfer (or non-delivery or non-transfer) of the products to or for the account of Buyer at (and including) the Energy Delivery Points or the performance of Seller’s obligations under the Definitive Agreement, including, without limitation, any (i) transaction, scheduling, financial scheduling, offering, or other fee or charge imposed by any Balancing Authority or transmission provider; (ii) Balancing Authority penalty or similar charge (including, without limitation, any charge or cost arising out of any limitation, restriction, penalty or determination made or other action taken by or pursuant to a request of a market monitor or similar authority in connection with the performance (or non-performance) of the Definitive Agreement); (iii) imbalance charge (including, without limitation, any revenue sufficiency guaranty or real-time excessive and non-excessive energy amount); (iv) integration charge; (v) cost of any ancillary service or other Balancing Authority or other transmission provider service (e.g., regulation); and (vi) similar cost or charge incurred in connection with the activities described above.</p> <p>In general, Buyer will have responsibility for certain imbalance charges and Balancing Authority penalty costs to the extent caused solely by actions of Buyer that will be specified in the Definitive Agreement and will vary depending on the nature of the Definitive Agreement (Toll or PPA) and whether Buyer is the Market Participant under the Definitive Agreement. For example, if Buyer is the Market Participant and the Definitive Agreement is a PPA and assuming Seller or others for which Seller is responsible are not at fault, Buyer will have responsibility for such imbalance charges and Balancing Authority penalty costs to the extent Seller complies with a Buyer dispatch notice requiring Seller to violate either (a) a MISO directive to Buyer as Market Participant that has not been communicated to Seller or (b) a MISO requirement to generate (or not generate) a product scheduled and/or offered by Buyer that is triggered solely by Buyer’s schedules. Further, nothing in this section limits Buyer’s obligation to make payments (e.g., Capacity Payments) to Seller as provided in the Definitive Agreement.</p>
<b>Guaranteed</b>	The “ <u>Guaranteed Heat Rate</u> ” is expected to be based upon (and will be no

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<p><b>Heat Rate:</b></p>	<p>greater than) the heat rate corresponding to Buyer’s dispatch level specified in the Transaction Proposal for the season in which such dispatch occurs and the actual heat rate at such dispatch level in such season. If, as a result of a unit contingency or other limitation, Buyer’s dispatch level is limited and such limitation results in a higher applicable heat rate, the applicable heat rate will be the heat rate corresponding to Buyer’s dispatch that would have occurred absent such limitation. The applicable heat rate is a blended heat rate for all MW included in the corresponding dispatch level. For Tolls, a deadband above and below the Guaranteed Heat Rate will apply. Incremental fuel costs resulting from operation of the Facility or Applicable Portion at a heat rate above the maximum allowed heat rate (after application of the deadband) for the applicable dispatch level will be for Seller’s account. Incremental fuel savings resulting from operation of the Facility or Applicable Portion at a heat rate below the floor of the deadband for the applicable dispatch level will be for Buyer’s account.</p>
<p><b>Fuel Supply and Transportation:</b></p>	<p>For PPAs, subject to other terms of the Definitive Agreement, Seller will be responsible for buying and delivering fuel to the Facility and all related costs (e.g., applicable taxes), including, without limitation, the arrangement, transportation, nomination, storage, use, loss, and disposition thereof. Without limiting the foregoing, Seller will bear all risk associated with any decision not to procure firm fuel supply and transportation.</p> <p>For Tolls, subject to other terms of the Definitive Agreement, Buyer will be responsible for buying and delivering fuel up to the gas delivery point(s) and all related costs, including, without limitation, the arrangement, transportation, nomination, storage, use, loss, and disposition thereof, and Seller will be responsible for delivering fuel from the gas delivery point(s) to the Facility (or, if applicable, Applicable Portion) for the fuel conversion services provided by Seller and all related costs (e.g., applicable taxes, emission allowances), including, without limitation, the transportation, use, loss, and disposition thereof.</p>
<p><b>Planned Maintenance:</b></p>	<p>Seller will be required to coordinate and schedule with Buyer planned maintenance of the Facility or, if applicable, the portion of the Facility constituting the Contract Capacity according to the Definitive Agreement and the applicable MISO Rules (“<u>Planned Maintenance</u>”). Seller will have the right to schedule and conduct Planned Maintenance only during the March/April and October/November time frames and otherwise in accordance with the MISO Rules applicable to Planned Maintenance. Each Planned Maintenance outage will be scheduled with Buyer months ahead of the outage, as specified in the Definitive Agreement. Seller will be subject to a maximum number of seasonal and annual Planned Maintenance hours that may be taken in any contract year. The expected timing and permitted duration of Planned Maintenance will be consistent with the technology utilized in the Facility or, if applicable, the</p>

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	portion of the Facility that constitutes Contract Capacity.
<b>Credit Support:</b>	Seller will be expected to meet the credit support requirements for sellers in the RFP, including Appendix F, and other credit-related terms, which for Tolls may include Seller's posting of additional security to cover costs that may arise from any gas transportation or supply agreement entered into by Buyer or any of its Affiliates to support the Facility in the event of Seller's default, all of which will be more fully developed in the Definitive Agreement. Buyer will not be required to provide credit support under the Definitive Agreement.
<b>Force Majeure:</b>	Force majeure will be as specified in the Definitive Agreement. Force majeure will exclude, among other things: (i) mechanical failures or breakdowns, defects, or equipment or systems failures not due to acts of God; (ii) events stated in the technical specifications of the Facility to be within the tolerance of the Facility; (iii) the failure or other act or omission of employees, agents, representatives, or direct or indirect contractors, subcontractors, or suppliers of the Party claiming force majeure or any non-delivery, delayed delivery, shortages, or other unavailability of machinery, spare parts, materials, consumables (including fuel), labor, equipment, or services (including any interruption or curtailment of fuel transportation or electric transmission), unless the Party claiming force majeure has a firm contract for the applicable service or item and the provider, if it were a party to the Definitive Agreement, would be able to claim force majeure for the same (subject to an exception for gas transportation and electric transmission); (iv) any weather event not abnormally severe for the period of time when, and the area where, such weather event occurs; and (v) labor strikes, slowdowns or stoppages.
<b>Conditions Precedent:</b>	The Definitive Agreement will include conditions precedent to the commencement of the Delivery Term, including, without limitation, conditions of Buyer with respect to its regulatory approvals and consents, fuel supply/transportation (for Tolls), recognition of the Facility and/or Applicable Portion for settlement by MISO or the Replacement BA, receipt of the required quantities of ERIS and NRIS, exclusivity of representation of the Facility or Applicable Portion before MISO or the Replacement BA (if applicable), accounting treatment (as described in "Accounting Treatment" below), and operational aspects of the Facility or Applicable Portion/common facilities. Buyer will have a period of time specified in the Definitive Agreement from the effective date of the Definitive Agreement to satisfy its conditions to commencement of the Delivery Term.
<b>Accounting Treatment:</b>	Prior to commencement of the Delivery Term, Seller will deliver to Buyer a certification from Seller's Principal Accounting Officer (as defined by the rules of the Securities and Exchange Commission) that, to the best of the Principal Accounting Officer's knowledge, the Definitive Agreement and the transactions thereunder or contemplated thereby do not and will not result in, under the accounting standards in effect at the time of the certification or that will be in effect during the term of the Definitive Agreement, the recognition of

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## Term Sheet for PPAs and Tolls

	<p>a long-term liability by Buyer or any of its Affiliates on its or any of its Affiliates' books and addressing any other accounting-related risks relating to the Definitive Agreement deemed necessary or advisable by Buyer in its sole and absolute discretion. The Definitive Agreement will require Seller to make representations, warranties, and covenants that fully protect Buyer against the accounting treatment described in the foregoing sentence. In connection therewith, each contract year Seller will provide a bring-down certification from Seller's Principal Accounting Officer affirming the statements made in the certification described above as of the time such bring-down certification is provided. Buyer will have the right, but not the obligation, (i) to require Seller to modify or amend the Definitive Agreement or enter into alternative arrangements as necessary or advisable for Buyer to avoid, minimize or mitigate the accounting risks described in this section (in which event the Parties will make such modifications or amendments or enter into such arrangements as expeditiously as practicable) and/or (ii) to terminate the Definitive Agreement in the event any such representation, warranty, or covenant is untrue or inaccurate, with a termination payment due to Buyer if the termination is due to the materialization of a risk that constitutes a Seller event of default.</p>
<p><b>Disallowance:</b></p>	<p>[Reserved. Please see Section 2.5 of the Main Body for additional information.]</p>
<p><b>Select Contract Terms and Conditions:</b></p>	<p>The Definitive Agreement will address, among other things, Seller's performance standards, pricing, scheduling limitations, operational flexibility requirements and restrictions, plant performance testing, replacement or substitute products, unit contingencies, the exclusion of QF put rights (if applicable), events of default, termination rights, audit rights, insurance requirements, information access and sharing (including, if Seller is the Market Participant, providing Buyer with unrestricted "view" access to the MISO web portal for the Facility or the Applicable Portion, as applicable), change in law, Buyer's right of first refusal, transfer restrictions, and confidentiality.</p>

NOTWITHSTANDING ANYTHING TO THE CONTRARY:

THIS DRAFT TERM SHEET DOES NOT CONSTITUTE A DEFINITIVE AGREEMENT OR AN OFFER TO ENTER INTO A DEFINITIVE AGREEMENT, DOES NOT CONTAIN ALL MATERIAL TERMS, CONDITIONS, AND MATTERS UPON WHICH AGREEMENT WOULD NEED TO BE REACHED IN ORDER FOR BUYER TO ENTER INTO A DEFINITIVE AGREEMENT, AND IS NOT REPRESENTATIVE OF THE STRUCTURE, DETAIL, OR REQUIRED PRECISION OF A DEFINITIVE AGREEMENT. THE TERMS PRESENTED IN THIS DRAFT TERM SHEET ARE SUMMARIES OF CERTAIN TERMS IN A DEFINITIVE AGREEMENT THAT IS A POWER PURCHASE AGREEMENT OR A TOLLING AGREEMENT. THE SUMMARY OF ANY INDIVIDUAL TERM HEREIN MAY NOT INCLUDE A COMPLETE EXPRESSION OF OR MAY NOT ADDRESS IMPORTANT CONCEPTS, PRINCIPLES, OR

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## **Term Sheet for PPAs and Tolls**

TERMS RELATED TO SUCH INDIVIDUAL TERM. WITHOUT LIMITING APPENDIX E TO THE 2015 ETI RFP, NO BINDING COMMITMENT SHALL ARISE PRIOR TO THE FULL AND COMPLETE EXECUTION AND DELIVERY OF THE DEFINITIVE AGREEMENT (IF ANY) BETWEEN BUYER AND SELLER, EVEN IF, PRIOR TO THEN, THE PARTIES REACH SOME AGREEMENTS OR UNDERSTANDINGS IN PRINCIPLE.

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