

**AMENDMENT AGREEMENT ADOPTING THE  
CONVERSION CONVENTION FOR AN INTO CINERGY PRODUCT**

This Amendment Agreement (this "Amendment") is made this \_\_\_\_ day of January, 2002, by and between [Party A] a \_\_\_\_\_ corporation ("\_\_\_\_\_"), and [Party B], a \_\_\_\_\_ corporation ("\_\_\_\_\_").

**BACKGROUND**

**WHEREAS**, [Party A] and [Party B] are parties to that certain EEI/NEMA Power Purchase and Sale Master Agreement dated as of \_\_\_\_\_, 2001, (the "Master Agreement"); and

**WHEREAS**, the creation of the Midwest Independent System Operator ("MISO") is likely to alter the rights, duties and commercial risks of pre-existing transactions for an "Into Cinergy" product as defined in the Master Agreement; and

**WHEREAS**, the Edison Electric Institute ("EEI") has published a "Conversion Convention For An Into Cinergy Product" on its website ([www.eei.org](http://www.eei.org)) dated \_\_\_\_\_, 2002, which enables parties to amend the Master Agreement to confirm their intentions with respect to certain matters arising in connection with the impact of MISO's creation on the "Into Cinergy" product; and

**WHEREAS**, the parties desire to amend the Master Agreement to adopt the Conversion Convention.

**NOW, THEREFORE**, for the above reasons, in consideration of the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Adoption. The parties agree that the definitions and provisions contained in the Conversion Convention published by the EEI on \_\_\_\_\_, 2001, are incorporated into and applied to the Master Agreement. References in those definitions and provisions to the Master Agreement will be deemed to be references to this Amendment.
2. Voidability. Neither the creation of MISO nor the execution and delivery of this Amendment by the parties shall operate to void, terminate or cancel any Transaction entered into between parties, nor shall the creation of MISO or execution and delivery of this Amendment be deemed to impair the performance of any obligation under the Master Agreement or provide a basis for the suspension of performance by either party under the Master Agreement.

3. Entire Agreement. This Amendment, the Master Agreement and the Conversion Convention comprise the entire understanding of the parties with respect to the subject matter hereof, and supercedes all prior or other negotiations, representations, understandings and agreements of, by or among the parties, express or implied, oral or written. The express terms of this Amendment control and supercede any course of performance and/or customary practice inconsistent with such terms. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Amendment unless such agreement is in writing and signed by the party against whom enforcement of such change, modification, discharge or abandonment is sought.

4. Governing Law. THIS AMENDMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AMENDMENT.

5. Waiver. Any parties' failure to enforce strictly any provisions of this Amendment shall not be construed as a waiver thereof, or as excusing either party from future performance. Any waiver, to be effective, must be in writing and signed by the party against whom it is sought to be enforced.

6. Successors and Assigns. This Amendment shall inure to the benefit of, and be binding upon, the successors and assigns of the respective parties hereto.

7. Counterparts. This Amendment may be executed in any number of counterparts and by each party on a separate counterpart or counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

8. [OPTIONAL PROVISION] Implementation of Congestion Management. The parties acknowledge that the Conversion Convention is designed to operate in the "Transition Period," as defined in the "Open Access Transmission Tariff For the Midwest Independent Transmission System Operator, Inc." prior to the implementation of an anticipated Congestion Management System. Immediately upon the filing of a proposed Congestion Management System with the Federal Energy Regulatory Commission by the MISO, the parties hereto agree to take commercially reasonable steps to negotiate further modification to the definition of then existing and future "Into Cinergy" products with the goal of such modifications being to preserve an economic result for each of the parties as close as possible to that existing prior to the implementation of the Congestion Management System.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first written above.

**[Party A]**, a \_\_\_\_\_ corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**[Party B]**, a \_\_\_\_\_ corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

MARKET PARTICIPANTS CONSIDERING USE OF THIS OR ANY SIMILAR AMENDMENT ARE ENCOURAGED TO CONSULT THEIR OWN LEGAL COUNSEL TO ENSURE THAT THEIR COMMERCIAL OBJECTIVES WILL BE ACHIEVED AND THEIR LEGAL RIGHTS AND INTERESTS ADEQUATELY PROTECTED.