

AFFILIATED INTEREST AGREEMENTS
Summary of Key Terms that Differ Significantly between the
Port Washington Agreements
and the
Elm Road Agreements

Key Terms that Differ

- Construction and operating characteristics of the coal-based technology
The more lengthy operating and environmental performance testing cycles are reflected in the ERGS lease and modifications were made to the operational testing and performance criteria. Those changes can be found in Section 4.5 and Schedules 3.1, 3.2(a), 3.3, 4.2, and 4.5.
- Approved Amount
The definition of the “Approved Amount” was changed to reflect that these facilities are not to be constructed based upon a fixed price, but rather will be subject to a tolerance band based on the actual costs of construction. This methodology follows on the structure supported by the Customer Groups for the Port Washington projects and is appropriate for the Elm Road projects because of the lengthy construction period for coal-based generating facilities and the unique specifications of a coal-based project. The Construction Cost Index used in the PWGS lease is not included in this version of the lease because the ERGS definition is based upon actual costs incurred, not a fixed price.
- Accounting for new common facilities
Modifications were made to Schedule 7.1, new Sections 7.4 and 7.5 were added, and a new Schedule 7.4 was added to recognize that the rent payment attributable to new common facilities will be adjusted as new units are put into service at the Elm Road site.