

**DRAFT – Bridge RPSA**

Contract No. 08PB-«#####»

**SHORT-TERM BRIDGE**

**Draft Template**

**RESIDENTIAL PURCHASE AND SALE AGREEMENT**

executed by the

**BONNEVILLE POWER ADMINISTRATION**

and

**«FULL NAME OF CUSTOMER»**

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This RESIDENTIAL PURCHASE AND SALE AGREEMENT (Agreement) is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA), and «FULL NAME OF CUSTOMER» («Customer Name»).

«Customer Name» is a «\_\_\_\_\_» organized under the laws of the State of «\_\_\_\_\_». BPA and «Customer Name» are sometimes referred to in the singular as “Party” or in the plural as “Parties.”

### RECITALS

The Northwest Power Act, among other matters, provides that a Pacific Northwest Regional electric utility may offer to sell electric power to BPA and BPA shall purchase such electric power at the average system cost (ASC) of that utility’s resources and that BPA shall sell in return an equivalent amount of electric power for resale to that utility’s residential and small farm users within the Pacific Northwest Region.

The Parties agree:

#### 1. TERM

This Agreement takes effect on the date signed by the Parties and expires on September 30, 2011. Performance by the Parties of their obligations under this Agreement shall commence on October 1, 2008.

#### 2. DEFINITIONS

Capitalized terms in this Agreement shall have the meanings defined below. All other capitalized terms are defined in BPA’s applicable Wholesale Power Rate Schedule(s), including the General Rate Schedule Provisions (GRSPs), or their successors.

- (a) “Appendix 1” (*04/03/08 Version*) means the electronic form on which «Customer Name» reports its Contract System Costs and other necessary data to BPA for the calculation of «Customer Name»’s ASC, as may be amended or superseded in a revised ASC Methodology.
- (b) “Average System Cost” means the rate charged by «Customer Name» to BPA for BPA’s purchase of power from «Customer Name» under section 5(c) of the Northwest Power Act for each Exchange Period and is the quotient obtained by dividing Contract System Costs by Contract System Load.
- (c) “ASC Methodology” means a methodology, as may be amended or superseded, used to determine ASC, as developed by BPA pursuant to section 5(c)(7) of the Northwest Power Act and attached to this Agreement for ease of reference only as Exhibit D, 2008 Average System Cost Methodology, and such methodology is not incorporated as part of this Agreement.
- (d) “Contract System Costs” means «Customer Name»’s costs for production and transmission resources, including power purchases and conservation measures, which costs are includable in and subject Appendix 1. Under no

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circumstances shall Contract System Costs include costs excluded from ASC by section 5(c)(7) of the Northwest Power Act.

- (e) “Contract System Load” (04/03/08 Version) means (1) the total Regional retail load included in the Form 1, or for a consumer-owned utility (preference customer), (2) the total Regional retail load from the most recent annual audited financial statement, as either may be adjusted pursuant to the ASC Methodology.
- (f) “Diurnal” or “Diurnally” means the division of hours of the day between Heavy Load Hours (HLH) and Light Load Hours (LLH).
- (g) “Exchange Period” (04/03/08 Version) means the period during which «Customer Name»’s ASC is effective for the calculation of benefits under this Agreement. Each Exchange Period shall be the period of time concurrent with the duration of each BPA rate period. The initial Exchange Period shall begin on October 1, 2008.
- (h) “Fiscal Year” or “FY” means the period beginning each October 1 and ending the following September 30.
- (i) “Form 1” (04/03/08 Version) means the annual filing submitted to the Federal Energy Regulatory Commission required by 18 CFR §141.1, or for a consumer-owned utility, the most recent annual audited financial statement and other information required to be filed pursuant to the ASC Methodology.
- (j) “In-Lieu PF Power” (04/03/08 Version) means firm power that is sold by BPA to «Customer Name» in an in-lieu transaction at the Priority Firm Power Exchange Rate, or its successor.
- (k) “In-Lieu Power” (04/03/08 Version) means firm power acquired by BPA from a source(s) other than «Customer Name» at a cost less than «Customer Name»’s ASC, as provided in section 5(c)(5) of the Northwest Power Act. The provisions for acquisition and delivery of In-Lieu Power shall be provided in a policy developed by BPA after this Agreement is executed (In-Lieu Power Policy).
- (l) “New Large Single Load” means a large single load as defined in section 3(13) of the Northwest Power Act and in BPA’s NLSL policy.
- (m) “Northwest Power Act” means the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96-501, as may be amended.
- (n) “Region” (09/04/07 Version) means the Pacific Northwest as defined in the Northwest Power Act.

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- (o) “Regulatory Body” means a state commission or consumer-owned utility governing body, or other entity authorized to establish retail electric rates in all or a portion of the utility’s service territory.
- (p) “Residential Load” (04/03/08 Version) means the Regional residential load to which «Customer Name» sells power, as that residential load is defined in the Northwest Power Act and as further defined in Exhibit A, Residential Load Definition.
- (q) “Residential Load Eligible for Monetary Benefits” means the monthly amounts of Residential Load determined pursuant to Exhibit A, Residential Load Definition, less:
  - (a) any amounts of Residential Load with respect to which BPA has issued a notice of the election, pursuant to section 7(b) below, to acquire In-Lieu Power and «Customer Name» has elected to receive the In-Lieu PF Power pursuant to section 7(c) below; or
  - (b) any amounts of Residential Load pursuant to section 7(c) below.
- (r) “Transmission Component of ASC” means the portion of «Customer Name’s» ASC attributable to transmission, as described in the In-Lieu Power Policy.
- (s) “Uncontrollable Forces” shall have the meaning specified in section 15.

### 3. APPLICABLE PF RATE

Purchases from BPA under this Agreement are subject to the Priority Firm Power Exchange (PF Exchange) rate and applicable GRSPs, or their successors. Sections 6 and 7 of the body of this Agreement establish purchases subject to the PF Exchange rate schedule.

### 4. ESTABLISHMENT OF ASC TO ACTIVATE AGREEMENT

Following the execution of this Agreement, «Customer Name» may activate its participation under this Agreement by filing an initial Appendix 1. Once «Customer Name» files an initial Appendix 1, «Customer Name» shall continue to file a new Appendix 1 for each subsequent Exchange Period, unless «Customer Name» elects to terminate this Agreement pursuant to section 11 below. Upon filing an Appendix 1, «Customer Name» shall commence invoicing for Residential Load on the later of the date of such filing or October 1, 2008.

### 5. OFFER BY «Customer Name» AND PURCHASE BY BPA

The offer and purchase transactions pursuant to this section 5 and section 6 below are (a) for the purpose of determining monetary benefits, if any, to be paid by BPA to «Customer Name» and (b) are deemed to be made contemporaneously. Sale transactions where BPA has acquired In-Lieu Power instead of purchasing electric power offered by «Customer Name» pursuant to section 5, shall be determined in accordance with section 7.

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Following the filing of an Appendix 1 under section 4 above, «Customer Name» shall offer and BPA shall purchase each month an amount of electric power equal to the Residential Load Eligible for Monetary Benefits.

The rate for such power sale to BPA shall be equal to «Customer Name»'s ASC, as determined by BPA using the ASC Methodology. «Customer Name» may only sell power under this section 5 for Residential Load that «Customer Name» is authorized under State law or by order of the applicable State regulatory authority to serve.

### 6. OFFER BY BPA AND PURCHASE BY «CUSTOMER NAME»

Simultaneous with the offer by «Customer Name» and purchase by BPA pursuant to section 5 above, BPA shall offer and «Customer Name» shall purchase each month an amount of electric power equal to the Residential Load Eligible for Monetary Benefits.

The rate for such power sale to «Customer Name» shall be BPA's PF Exchange rate. For billing purposes, «Customer Name»'s load factor shall be determined pursuant to Exhibit B, Load Factor Specification.

### 7. IN-LIEU TRANSACTIONS

#### (a) BPA's Right to In-Lieu

Rather than purchase all or a portion of the electric power offered to BPA pursuant to section 5 by «Customer Name» at a rate equal to its ASC, BPA may acquire In-Lieu Power if the cost of such power is less than «Customer Name»'s ASC. The ASC that will be used for issuing an in-lieu notice shall be the ASC in effect on the date such notice is given.

#### (b) In-Lieu Notice(s)

BPA shall provide «Customer Name» a minimum period advance written notice of its election to acquire In-Lieu Power, and shall include in the notice the following information: the source(s) of In-Lieu Power, the amount of In-Lieu PF Power, the shape of In-Lieu Power, the cost of such In-Lieu Power, the term of the In-Lieu PF Power sale, and the point or points of delivery. Such minimum period shall be established by the In-Lieu Power Policy).

##### (1) Source(s) of In-Lieu Power

The sources of In-Lieu Power shall be defined in the In-Lieu Power Policy.

##### (2) Amount of In-Lieu PF Power

The monthly amounts of In-Lieu PF Power shall be based on BPA's most recent forecast of «Customer Name»'s Residential Load. «Customer Name» shall identify the portion of its Contract System Load, as described in the ASC Methodology that is Residential Load at

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the time it files an Appendix 1 under this Agreement in the manner described in section 7(f) below. BPA may issue an in-lieu notice for all or a percentage portion of «Customer Name»'s Residential Load.

### (3) Expected Costs of In-Lieu Power

BPA shall identify its expected costs of In-Lieu Power in the in-lieu notice. Such expected costs shall consist of BPA's forecast of the wholesale costs of supplying In-Lieu Power to the delivery point in the amount and in the shape identified in the in-lieu notice. Such expected costs of the In-Lieu Power shall be developed in accordance with procedures described in the In-Lieu Power Policy and shall include, but are not limited to: the cost of transmission and losses to integrate the power into the BPA system, to the extent they are incurred; the costs of the power shaped to meet a uniform percentage of Diurnally differentiated monthly amounts of Residential Load identified in the in-lieu notice; the costs of additional operating reserves if such reserves are necessary under Western System Coordinating Council (or its successor) procedures; the product of the Transmission Component of ASC multiplied by the amount of In-Lieu PF Power; and the costs that BPA incurs to deliver the In-Lieu PF Power to the point of delivery as described below.

The expected cost of In-Lieu Power shall include the costs of delivering the power to «Customer Name». Any transmission cost or losses incurred to deliver the In-Lieu Power directly to «Customer Name» shall be treated as a cost to integrate the power into the BPA system.

### (4) Term and Quality of the In-Lieu PF Power Sale

The In-Lieu PF Power will be firm power offered by BPA for a period of one or more Fiscal Years. BPA may issue multiple in-lieu notices.

### (c) «Customer Name» Election to Either Receive In-Lieu PF Power or Reduce ASC

Within a minimum period established by the In-Lieu Power Policy (but in no event less than 15 days) following the receipt of BPA's notice to acquire In-Lieu Power pursuant to section 7(b) above, «Customer Name» shall provide BPA written notice of its election to either receive and pay for all or a portion of the In-Lieu PF Power or to not receive In-Lieu PF Power and instead reduce its ASC for all or a portion of the In-Lieu Power to the expected cost of the In-Lieu Power. If «Customer Name» elects to reduce its ASC to the expected cost of the In-Lieu Power, and the expected cost of such In-Lieu Power is less than the PF Exchange Rate, then «Customer Name» may suspend its sale and purchase under sections 5 and 6 of this agreement for all or a portion of the amount of Residential Load that BPA proposes to serve with In-Lieu PF Power, for the duration of time specified in the In-Lieu notice. «Customer Name»'s election under this section shall be based on all or a percentage portion of «Customer Name»'s Residential Load that BPA has specified in its in-lieu notice. Amounts suspended under this section 7(c)

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shall not be added to «Customer Name»'s balancing account under section 12. If «Customer Name» fails to notify BPA of its election under this section, then «Customer Name» shall be deemed to have agreed not to receive In-Lieu PF Power and instead reduce its ASC for all of the In-Lieu Power to the expected cost of the In-Lieu Power.

**(d) Delivery of and Payment for In-Lieu PF Power**

In-Lieu PF Power shall be delivered to the transmission system connected to «Customer Name»'s distribution system. «Customer Name» shall pay BPA for In-Lieu PF Power made available for delivery at the PF Exchange Rate. For any month that «Customer Name» pays BPA for such In-Lieu PF Power, BPA shall pay to «Customer Name» an amount equal to the product of the Transmission Component of ASC multiplied by the amount of such In-Lieu PF Power.

**(e) Scheduling of In-Lieu PF Power**

All In-Lieu PF Power deliveries shall be scheduled. «Customer Name» shall preschedule In-Lieu PF Power in accordance with the provisions described in Exhibit E, Scheduling Provisions.

**(f) Shaping of In-Lieu PF Power**

In-Lieu PF Power will be delivered in monthly amounts shaped to «Customer Name»'s monthly Residential Load (e.g., if «Customer Name»'s January Residential Load is 12 percent of its annual Residential Load, In-Lieu PF Power deliveries for January will be 12 percent of annual In-Lieu PF Power deliveries). Such monthly amounts shall be based on data used by «Customer Name» to establish its then-current rates, and shall be supplied to BPA with its forecast of Residential Load. «Customer Name» shall supply a monthly forecast of Residential Load, and the diurnal amounts of Residential Load when it files its Appendix 1. Deliveries within each month will be in equal hourly amounts during each HLH and in equal hourly amounts during each LLH, for each monthly period based on the load shape data in «Customer Name»'s forecast of Residential Load. If BPA does not have, or is not provided adequate load shape data, BPA will determine the load shape of the In-Lieu PF Power based on the average load shape of its preference customer class. Adequately documented load shape data shall include, but not be limited to, data that are verifiable through published sources. The load shape established for each notice will continue for the duration of the In-Lieu PF Power transaction.

## 8. BILLING AND PAYMENT

- (a) «Customer Name» shall submit to BPA each month an accounting invoice that documents the amount of Residential Load Eligible for Monetary Benefits. Such documentation shall include the kilowatt-hours of energy which «Customer Name» billed to the Residential Load Eligible for Monetary Benefits. Although subject to adjustment pursuant to section 9 below, this amount shall be deemed to be equal to the amount of Residential Load Eligible for Monetary Benefits.

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The monthly amounts of In-Lieu PF Power billed under this Agreement shall be the monthly amounts specified in the in-lieu notice and made available for delivery.

**(b) Billing**

Within 30 days following the receipt of each monthly invoice from «Customer Name» subject to section 9 below, BPA shall verify the invoice, compute the net amount due «Customer Name» from the sale under section 5 and the amount due BPA from the sale under section 6, compute the amount, if any, due BPA for a sale of In-Lieu PF Power under section 7, as may be adjusted pursuant to section 21, and either pay or bill «Customer Name» for the difference, as appropriate.

BPA may send «Customer Name» an estimated bill followed by a final bill if amounts are due BPA for a month. BPA shall send all bills on their issue date either electronically or by mail, at «Customer Name»'s option. If electronic transmittal of the entire bill is not practical, BPA shall transmit a summary electronically, and send the entire bill by mail.

**(c) Payment**

Payment must be received by the 20<sup>th</sup> day after the issue date of the bill where «Customer Name» pays BPA (Due Date). Payment must be received within 30 days following receipt of each monthly invoice pursuant to section 8(a) above where BPA pays «Customer Name» (Due Date). If the 20<sup>th</sup> day is a Saturday, Sunday, or Federal holiday, the Due Date is the next business day. After the Due Date, a late payment charge shall be applied each day to any unpaid balance. The late payment charge is calculated by dividing the Prime Rate for Large Banks as reported in the Wall Street Journal, plus 4 percent; by 365. The applicable Prime Rate for Large Banks shall be the rate reported on the first day of the month in which payment is received. «Customer Name» shall pay by electronic funds transfer using BPA's established procedures. BPA shall pay by electronic funds transfer using «Customer Name»'s established procedures.

**(d) Disputed Bills**

In case of a billing dispute, «Customer Name» shall note the disputed amount and pay its bill in full by the Due Date. Unpaid bills (including both disputed and undisputed amounts) are subject to late payment charges provided above. If «Customer Name» is entitled to a refund or additional payment for any portion of the disputed amount, then BPA shall make such refund or provide such additional payment with a simple interest computed from the date of receipt of the disputed payment to the date the refund or additional payment is made. The daily interest rate used to determine the interest is calculated by dividing the Prime Rate for Large Banks as reported in the Wall Street Journal; by 365. The applicable Prime Rate for Large Banks shall be the rate reported on the first day of the month in which payment is received by BPA.

- (e) BPA may require that «Customer Name» supply BPA with commercially reasonable credit information. In the event that «Customer Name» does not satisfy BPA's credit test based on the information provided, BPA may, at its option, require «Customer Name» to deposit payments received from BPA into an escrow account.

**9. ACCOUNTING, REVIEW, AND BUDGETING**

«Customer Name» shall keep up-to-date records, accounts, and related documents that pertain to this Agreement. These records, accounts, and documents shall contain information that supports:

- (a) «Customer Name»'s ASC as determined pursuant to the ASC Methodology; ;
- (b) identification of the consumers that comprise «Customer Name»'s Residential Load;
- (c) the amount of Residential Load Eligible for Monetary Benefits invoiced to BPA; and
- (d) evidence that the benefits received by «Customer Name» have been passed through to consumers that comprise «Customer Name»'s Residential Load Eligible for Monetary Benefits, as provided for in section 10 below..

At BPA's expense, BPA or its agent may, from time-to-time, review or inspect «Customer Name»'s records, accounts, and related documents pertaining to this Agreement. BPA's agent shall be subject to approval by «Customer Name»; such approval shall not be unreasonably withheld. «Customer Name» shall fully cooperate in good faith with any such reviews or inspections. BPA retains the right to take action consistent with the results of such reviews or inspections to require the passthrough of such benefits to Residential Load Eligible for Monetary Benefits.

BPA's right to review or inspect «Customer Name» records, accounts, and related documents pertaining to this Agreement for any year shall expire 60 months after the end of such year. As long as BPA has such right to review or inspect, «Customer Name» agrees to maintain such records, accounts, and related documents.

If BPA determines that «Customer Name» has received monetary benefits for ineligible load or other errors in implementing this Agreement that result in an overpayment, then any such overpayment shall be returned to BPA within 30 days of BPA's determination, or BPA may adjust future monetary benefit payments to «Customer Name». If BPA determines that «Customer Name» has not received monetary benefits due to «Customer Name»'s failure to submit eligible Residential Load or other errors in implementing this Agreement that result in an underpayment, then BPA shall pay «Customer Name» such monetary benefits within 30 days of BPA's determination that such benefits were not received. In the event «Customer Name» disputes BPA's determination, «Customer Name» shall note the dispute and return any amount of overpayment identified by BPA within

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30 days of BPA's written notice of such determination. Such dispute shall be subject to resolution in the same manner as a disputed bill under section 8(d) above.

**[Note: Parties to compare section language with Passthrough language in the Settlement Agreements.]**

### 10. PASSTHROUGH OF BENEFITS

- (a) Except as otherwise provided in this Agreement, all benefit amounts received by «Customer Name» from BPA under this Agreement shall be passed through to residential and small farm customers as either: (1) a separately stated credit to applicable retail rates; (2) monetary payments; or (3) as otherwise directed by the applicable Regulatory Body(s).
- (b) Benefits shall be passed through by «Customer Name» in a timely manner, as set forth in this section 10(b) *provided, that*, it is specifically acknowledged and agreed that distributions of benefits for the Residential Load may be made by «Customer Name» in advance of its receipt of any such benefits from BPA and that such benefits may be used to set off distributions to the Residential Load made by «Customer Name» before or after October 1, 2008. The amount of benefits held in the account described in section 10(c) below at any time shall not exceed the expected receipt of monetary payments from BPA under this Agreement over the next 180 days, *provided, however*, that if the amount of benefits held in the account is less than \$1,000,000, then «Customer Name» may distribute benefits on a less frequent basis, *provided* that distributions are made at least once each Fiscal Year.
- (c) Benefits shall be passed through consistent with procedures developed by «Customer Name»'s Regulatory Body(s). Until «Customer Name» has passed through such benefits pursuant to section 10(a) above, benefits shall be identified on «Customer Name»'s books of account and shall accrue interest at the rate(s) established by «Customer Name»'s Regulatory Body(s).
- (d) Nothing in this Agreement shall require that any power provided pursuant to section 7 be delivered on an unbundled basis to residential and small farm customers of «Customer Name» or that «Customer Name» provide retail wheeling of such power.

### 11. TERMINATION OF AGREEMENT

- (a) «Customer Name» may elect to terminate this Agreement within 30 days of confirmation and approval by the Federal Energy Regulatory Commission of new BPA rates (on the earlier of an interim basis, or if interim approval is not granted, on a final basis) in which the supplemental rate charge provided for in section 7(b)(3) of the Northwest Power Act is applied and the PF Exchange rate charged «Customer Name» exceeds «Customer Name»'s ASC.

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In the event a court of competent jurisdiction remands to BPA the Priority Firm Power (PF) Exchange Rate relied upon by «Customer Name» to provide a notice of termination of this Agreement, and BPA amends such rate upon remand such that «Customer Name» would not have given a notice of termination under such rate, the termination is rescinded and the parties shall be placed in the position of the notice never having been given. Similarly, in the event a court of competent jurisdiction remands to BPA the Priority Firm Power (PF) Exchange Rate relied upon by «Customer Name» in failing to provide a notice of termination, and BPA amends such rate upon remand such that «Customer Name» would have given a notice of termination under such rate, the termination shall be effective at the time the earlier termination notice would have taken effect.

- (b) «Customer Name» may elect to terminate this Agreement within 6 months of confirmation and approval by the Federal Energy Regulatory Commission of a new or amended ASC methodology (on an interim basis, or if interim approval is not granted, on a final basis) under which «Customer Name's» initial ASC calculated under such ASC methodology falls below BPA's PF Exchange rate applicable to the initial Exchange Period under the new or amended ASC methodology. Such termination shall be effective retroactively to the beginning of the initial Exchange Period under the new or amended ASC methodology.
- (c) After termination, «Customer Name» shall not participate in the Residential Exchange Program established in section 5(c) of the Northwest Power Act until «Customer Name» offers to sell electric power to the Administrator at the average system cost of «Customer Name's» resources pursuant to section 5(c) of the Act.

### 12. PAYMENT BALANCING ACCOUNT

#### (a) Balancing Account (BA)

The account balance, if any, is deemed to be \$«\_\_\_» on October 1, 2008, subject to the resolution of any disputes regarding such balance. This account balance includes an adjustment for changes in the Western Region Consumer Price Index (all items) (CPI) applied to such balance beginning in October 1, 2008, and continuing until such time as the BA balance is reduced to zero, based on the methodology described below. BPA shall adjust such balance monthly effective October 1, 2008, to reflect actual monthly changes in the CPI. This account balance (BA\_B), if any, comprises the beginning balance for a balancing account described in this section.

As long as the BA\_B is greater than zero, such balance shall be adjusted monthly by the change in the Consumer Price Index value for that month relative to the CPI value for the previous month as follows. For the current month (m)

$$BA\ adjustment_{m+1} = \{CPI_m / CPI_{m-1} - 1\} * BA\_B_m$$

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Where

$CPI_m$  = current month's CPI Index value as determined below

$CPI_{m-1}$  = Previous month's CPI Index value

$BA_B_m$  = Current month's ending BA balance

$BA_B_{m+1}$  = Next month's beginning BA balance

The CPI index value shall be the end of month Consumer Price Index – All Urban Consumers (West Region, All Items), as published on the Bureau of Labor Statistics web site: address: <http://data.bls.gov/cgi-bin/surveymost?cu>, (select “West Region, all items” and then select the applicable range of months and years.)

The adjusted BA balance for the next month (m+1) shall then be:

$$BA_B_{m+1} = BA_B_m + BA \text{ adjustment} + P$$

Where P is the amount by which the BA increases or decreases as determined by the difference between the utility's current ASC minus the PF Exchange Rate multiplied the utility's Residential Load. If the ASC is less than the PF Exchange rate, P will be positive and add to the BA balance; otherwise P will be negative and reduce the BA balance.

**(b) Additions to the Beginning Balancing Account**

Whenever the ASC is less than BPA's then-current PF Exchange rate during the term of this Agreement, the payment that would otherwise be owed BPA will be tracked by BPA and added to the balancing account.

**(c) Resumption of Monetary Benefits**

If there is a balance in the balancing account and the ASC is greater than the applicable Priority Firm Power Exchange Rate, BPA will make no cash payments but will apply the amount that would have been paid in order to reduce the account balance. «Customer Name» will resume the receipt of exchange payments from BPA under this Agreement provided that there is no longer an amount in the balancing account, or «Customer Name» makes payments to BPA to bring the balance in the balancing account to zero. «Customer Name» may elect to make cash payments to BPA in order to eliminate all or a portion of «Customer Name»'s account balance at any time.

**(d) Account Balance Carry Over**

Any balance in the balancing account, upon termination of this Agreement, shall not be a cash obligation of «Customer Name» but will carry over to the balancing account of the next RPSA.

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**13. NOTICES**

Any notice required under this Agreement shall be in writing and shall be delivered (a) in person; (b) by a nationally recognized delivery service; or (c) by United States Certified Mail. Notices are effective when received. Either Party may change its address for notices by giving notice of such change consistent with this section.

If to «Customer Name»:

«\_\_\_\_\_»  
«\_\_\_\_\_»  
«\_\_\_\_\_»  
Attn: «\_\_\_\_\_»  
      «\_\_\_\_\_»  
Phone: «\_\_-\_\_-\_\_»  
FAX: «\_\_-\_\_-\_\_»  
E-Mail: «\_\_\_\_\_»

If to BPA:

Bonneville Power Administration  
P.O. Box 3621  
Portland, OR 97208-3621  
Attn: «\_\_\_\_\_ - \_\_\_\_»  
      Account Executive  
Phone: 503-230-«\_\_\_\_\_»  
FAX: «\_\_-\_\_-\_\_»  
E-Mail: «\_\_\_\_\_»

**14. COST RECOVERY**

- (a) Nothing included in or omitted from this Agreement creates or extinguishes any right or obligation, if any, of BPA to assess against «Customer Name» and «Customer Name» to pay to BPA at any time a cost underrecovery charge pursuant to an applicable transmission rate schedule or otherwise applicable law.
- (b) BPA may adjust the PF Exchange rate set forth in the applicable power rate schedule during the term of this Agreement pursuant to the Cost Recovery Adjustment Clause in the 2009 GRSPs, or successor GRSPs.

**15. UNCONTROLLABLE FORCES**

PBL shall not be in breach of its obligation to provide In-Lieu PF Power and «Customer Name» shall not be in breach of its obligation to purchase In-Lieu PF Power to the extent the failure to fulfill that obligation is due to an Uncontrollable Force. “Uncontrollable Force” means an event beyond the reasonable control of, and without the fault or negligence of, the Party claiming the Uncontrollable Force that impairs that Party’s ability to perform its contractual obligations under this Agreement and which, by exercise of that Party’s reasonable diligence and foresight, such Party could not be expected to avoid and was unable to avoid. Uncontrollable Forces include, but are not limited to:

- (a) any unplanned curtailment or interruption for any reason of firm transmission used to deliver In-Lieu PF Power to «Customer Name»’s facilities or distribution system, including but not limited to unplanned maintenance outages;
- (b) any unplanned curtailment or interruption, failure or imminent failure of «Customer Name»’s distribution facilities, including but not limited to unplanned maintenance outages;

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- (c) any planned transmission or distribution outage that affects either «Customer Name» or PBL which was provided by a third-party transmission or distribution owner, or by a transmission provider, including TBL and «Customer Name», that is functionally separated from the generation provider in conformance with FERC Orders 888 and 889 or their successors;
- (d) strikes or work stoppage, including the threat of imminent strikes or work stoppage;
- (e) floods, earthquakes, or other natural disasters; and
- (f) orders or injunctions issued by any court having competent subject matter jurisdiction, or any order of an administrative officer which the Party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction.

Neither the unavailability of funds or financing nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable Force. Nothing contained in this provision shall be construed to require either Party to settle any strike or labor dispute in which it may be involved.

The Party claiming the Uncontrollable Force shall notify the other Party as soon as practicable of that Party's inability to meet its obligations under this Agreement due to an Uncontrollable Force. The Party claiming the Uncontrollable Force also agrees to notify any control area involved in the scheduling of a transaction which may be curtailed due to an Uncontrollable Force.

Both Parties shall be excused from their respective obligations, other than from payment obligations incurred prior to the Uncontrollable Force, without liability to the other, for the duration of the Uncontrollable Force and the period reasonably required for the Party claiming the Uncontrollable Force, using due diligence, to restore its operations to conditions existing prior to the occurrence of the Uncontrollable Force.

### 16. GOVERNING LAW AND DISPUTE RESOLUTION

*(Drafter's Note: The reference below to "CPR" means "Center for Policy Resolution." CPR is a proper name and should not be spelled out.)*

*[OPTIONS for section 16.*

*Option 1-Include the following if customer prefers to litigate (not arbitrate) disputes.*

This Agreement shall be interpreted in accordance with and governed by Federal law. The Parties shall make a good faith effort to negotiate a resolution of disputes before initiating litigation. During a contract dispute or contract issue between the Parties arising out of this Agreement, the Parties shall continue performance under this Agreement pending resolution of the dispute, unless to do so would be impossible or impracticable. «Customer Name» reserves the right to seek judicial resolution of any dispute arising under this Agreement.

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*Option 2-Include the following if customer prefers to arbitrate (not litigate) disputes.*

- (a) This Agreement shall be interpreted consistent with and governed by Federal law. Final actions subject to section 9(e) of the Northwest Power Act are not subject to binding arbitration and shall remain within the exclusive jurisdiction of the United States Ninth Circuit Court of Appeals. Any dispute regarding any rights of the Parties under any BPA policy, including the implementation of such policy, shall not be subject to arbitration under this Agreement. «Customer Name» reserves the right to seek judicial resolution of any dispute arising under this Agreement that is not subject to arbitration under this section 16. For purposes of this section 16 BPA policy means any written document adopted by BPA as a final action in a decision record or record of decision that establishes a policy of general application, or makes a determination under an applicable statute. If either Party asserts that a dispute is excluded from arbitration under this section 16, either Party may apply to the Federal court having jurisdiction for an order determining whether such dispute is subject to arbitration under this section 16.
- (b) Any contract dispute or contract issue between the Parties arising out of this Agreement, except for disputes that are excluded through section 16(a) above, shall be subject to binding arbitration. The Parties shall make a good faith effort to resolve such disputes before initiating arbitration proceedings. During arbitration, the Parties shall continue performance under this Agreement pending resolution of the dispute, unless to do so would be impossible or impracticable.
- (c) Any arbitration shall take place in Portland, Oregon, unless the Parties agree otherwise. The CPR Institute for Dispute Resolution’s arbitration procedures for commercial arbitration, Non-Administered Arbitration Rules (CPR Rules), shall be used for each dispute; provided, however, that: (1) the Parties shall have the discovery rights provided in the Federal Rules of Civil Procedure unless the Parties agree otherwise; and (2) for claims of \$1 million or more, each arbitration shall be conducted by a panel of three neutral arbitrators. The Parties shall select the arbitrators from a list containing the names of 15 qualified individuals supplied by the CPR Institute for Dispute Resolution. If the Parties cannot agree upon three arbitrators on the list within 20 business days, they shall take turns striking names from the list of proposed arbitrators. The Party initiating the arbitration shall take the first strike. This process shall be repeated until three arbitrators remain on the list, and those individuals shall be designated as the arbitrators. For disputes involving less than \$1 million, a single neutral arbitrator shall be selected consistent with section 6 of the CPR Rules.
- (d) Except for arbitration awards which declare the rights and duties of the Parties under the Agreement, the payment of monies shall be the exclusive remedy available in any arbitration proceeding. Under no circumstances shall specific performance be an available remedy against BPA. The arbitration award shall be final and binding on both Parties, except that either Party may seek judicial review based upon any of the grounds referred to in the Federal Arbitration Act, 9 U.S.C. §1-16 (1988). Judgment upon the

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award rendered by the arbitrators may be entered by any court having jurisdiction thereof.

- (e) Each Party shall be responsible for its own costs of arbitration, including legal fees. The arbitrator(s) may apportion all other costs of arbitration between the Parties in such manner as they deem reasonable taking into account the circumstances of the case, the conduct of the Parties during the proceeding, and the result of the arbitration.

*End of OPTIONS for section 16.]*

### 17. STATUTORY PROVISIONS

- (a) **Annual Financial Report and Retail Rate Schedules**

«Customer Name» shall provide PBL with a current copy of its annual financial report and its retail rate schedules, as required by Section 5(a) of the Bonneville Project Act, P.L. 75-329.

- (b) **New Large Single Loads***(09/05/00 Version for Block)*

- (1) **General**

All existing NLSLs are listed in section 5 of Exhibit A, Rate Commitments. «Customer Name» shall provide reasonable notice to PBL of any expected increase in load that is likely to qualify as a new NLSL. «Customer Name» may either serve a NLSL with Contracted Power or with power from another source. For purposes of this section 15(c), “Consumer” means an end-user of electric power or energy.*(Drafter’s Note: List existing NLSLs in the Rate Commitments Exhibit)*

- (2) **Determination of a Facility**

PBL, in consultation with «Customer Name», shall make a reasonable determination of what constitutes a single facility, for the purpose of identifying a NLSL, based upon the following criteria:

- (A) whether the load is operated by a single Consumer;
    - (B) whether the load is in a single location;
    - (C) whether the load serves a manufacturing process which produces a single product or type of product;
    - (D) whether separable portions of the load are interdependent;
    - (E) whether the load is contracted for, served or billed as a single load under «Customer Name»’s customary billing and service policy;
    - (F) consistent application of the foregoing criteria in similar fact situations; and

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(G) any other factors the Parties determine to be relevant.

PBL shall show an increase in load associated with a Consumer's facility which has been determined to be a NLSL in section 5 of Exhibit A, Rate Commitments. PBL shall have the unilateral right to amend Exhibit A to reflect such determinations when made.

(3) **Determination of Ten Average Megawatt Increase**

An increase in load shall be considered a NLSL if the energy consumption of the Consumer's load associated with a new facility, an existing facility, or expansion of an existing facility during the immediately past 12-month period exceeds by 10 average megawatts or more the Consumer's energy consumption for such new facility, existing facility or expansion of an existing facility for the consecutive 12-month period one year earlier, or the amount of the contracted for, or committed to load of the Consumer as of September 1, 1979, whichever is greater.

*[OPTIONS for section 17(b)(4).*

*Option 1-Include the following if customer has no CF/CT loads.*

(4) **CF/CT Loads**

«Customer Name» has no loads that were contracted for, or committed to, as of September 1, 1979, as defined in section 3(13)(A) of the Northwest Power Act.

*Option 2-Include the following if customer has CF/CT loads.*

(4) **CF/CT Loads**

The following loads were determined by the Administrator to be contracted for, or committed to, as of September 1, 1979, as defined in section 3(13)(A) of the Northwest Power Act, and are subject to the applicable rate for the rest (non-NLSL) of «Customer Name»'s load:

Retail electric power consumer's name:

Amount of firm energy contracted for, or committed to, as of September 1, 1979:

Facility description:

*End of OPTIONS for section 17(b)(4).]*

(c) **Priority of Pacific Northwest Customers**

The provisions of sections 9(c) and (d) of P.L. 96-501 and the provisions of P.L. 88-552 as amended by section 8(e) of P.L. 96-501 are incorporated into this Agreement by reference. BPA agrees that «Customer Name», together with other customers in the Region, shall have priority to BPA power, consistent with these provisions.

(d) **BPA Appropriations Refinancing Act**

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Section 3201(i) of P.L. 104-134 is incorporated by reference. *(Drafter's Note: BPA is legally obligated to offer to make section 3201(i) of P.L. 104-134 a part of this Agreement. Customer may exclude this provision at their option.)*

### 18. STANDARD PROVISIONS

(a) **Amendments**

No oral or written amendment, rescission, waiver, modification or other change of this Agreement shall be of any force or effect unless set forth in a written instrument signed by authorized representatives of each Party.

(b) **Assignment**

This Agreement is binding on any successors and assigns of the Parties. BPA may assign this Agreement to another Federal agency to which BPA's statutory duties have been transferred. Neither Party may otherwise transfer or assign this Agreement, in whole or in part, without the other Party's written consent. BPA shall consider any request for assignment consistent with applicable BPA statutes. Such consent shall not be unreasonably withheld. «Customer Name» may not transfer or assign this Agreement to any of its retail customers.

(c) **Information Exchange and Confidentiality**

The Parties shall provide each other with any information that is reasonably required and requested in writing by either Party, to operate under and administer this Agreement, including load forecasts for planning purposes, information needed to resolve billing disputes, scheduling and metering information reasonably necessary to prepare power bills that is not otherwise available to the requesting Party, including metering data for each load that qualifies as an NLSL. Such information shall be provided in a timely manner. Information may be exchanged by any means agreed to by the Parties. If such information is subject to a privilege of confidentiality, a confidentiality agreement or statutory restriction under state or Federal law on its disclosure by a Party to this Agreement, then that Party shall endeavor to obtain whatever consents, releases or agreements are necessary from the person holding the privilege to provide such information while asserting the confidentiality over the information. Information provided to BPA which is subject to a privilege of confidentiality or nondisclosure shall be clearly marked as such and BPA shall not disclose such information without obtaining the consent of the person or Party asserting the privilege, consistent with BPA's obligation under the Freedom of Information Act. BPA may use such information as necessary to provide service or timely bill for service under this Agreement. BPA shall only disclose information received under this provision to BPA employees who need the information for purposes of this Agreement.

(d) **Entire Agreement**

This Agreement, including all provisions, exhibits that are incorporated as part of this Agreement, and documents incorporated by reference, constitutes

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the entire agreement between the Parties. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement.

(e) **Exhibits**

The exhibits listed in the table of contents are incorporated into this Agreement by reference. The exhibits may only be revised upon mutual agreement between the Parties unless otherwise specified in the exhibits. The body of this Agreement shall prevail over the exhibits to this Agreement in the event of a conflict.

(f) **Liability of Delivery**

«Customer Name» waives any claims against BPA under this Agreement for non-delivery of power to any points beyond the applicable point(s) of delivery under section 7. In no event will either Party be liable under this Agreement to the other Party for damage that results from an Electrical Disturbance caused by or occurring on an electric system owned or operated by such other Party or a third-party. Electrical Disturbance means any sudden, unexpected, changed, or abnormal electrical condition occurring in or on an electric system which causes damage.

(g) **No Third-Party Beneficiaries**

This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with this Agreement.

(h) **Waivers**

Any waiver at any time by either Party to this Agreement of its rights with respect to any default or any other matter arising in connection with this Agreement shall not be considered a waiver with respect to any subsequent default or matter.

(i) **BPA Policies**

Any reference in this Agreement to BPA policies, including without limitation BPA's NLSL Policy, In-Lieu Power Policy, and the 5(b)/9(c) Policy, and any revisions thereto, does not constitute agreement by «Customer Name» to such policy, nor shall it be construed to be a waiver of the right of «Customer Name» to seek judicial review of any such policy.

*[OPTION for section 18(j).*

*This provision is optional at customer's discretion.*

(j) **Hold Harmless**

Each Party assumes all liability for injury or damage to persons or property arising from the act or negligence of its own employees, agents, members of governing bodies or contractors. Each Party shall indemnify and hold the other Party harmless from any liability arising from such act or negligence.

*End of OPTION for section 18(j).]*

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**19. NOTICE PROVIDED TO RESIDENTIAL AND SMALL FARM CONSUMERS**

«Customer Name» will ensure that any entity that issues customer bills to «Customer Name»'s residential and small farm consumers shall provide written notice on such customer bills that the benefits of this Agreement are "Federal Columbia River Benefits supplied by BPA."

*Drafter's Note: Include the following section 20 ONLY for IOUs*

**20. ADJUSTMENTS TO MONETARY BENEFITS**

The monetary benefits provided «Customer Name» under this Agreement shall be subject to adjustment by BPA to account for the overpayment of benefits under the Residential Exchange Program Settlement Agreement, Contract No. \_\_\_\_\_, as amended, during FY 2002 through FY 2007. Any such adjustments shall be limited to those formally established by BPA in its wholesale power rate adjustment proceedings or other forums established by BPA for the determination of the amount of overpayment to be recovered and the recovery period.

*End section 20 for IOUs only*

*Drafter's Note: Include the following section 20 ONLY for any public customer that executed a Regional Dialogue contract in 2008 that included a CHWM, but later decides to exercise their rights to the Public Exchange.*

**20. RESTRICTION ON RIGHT TO EXCHANGE COSTS OF RESOURCES ACQUIRED AFTER SEPTEMBER 30, 2006**

«Customer Name» agrees that, for purposes of determining ASC, «Customer Name» shall only include in each Appendix 1 filing the costs of resources that were acquired on or before September 30, 2006.

*End section 20 for public customers only*

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**21. SIGNATURES**

Each signatory represents that he or she is authorized to enter into this Agreement on behalf of the Party for whom he or she signs.

«FULL NAME OF UTILITY»

UNITED STATES OF AMERICA  
Department of Energy  
Bonneville Power Administration

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_  
*(Print/Type)*

Name \_\_\_\_\_  
*(Print/Type)*

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

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**Exhibit A  
RESIDENTIAL LOAD DEFINITION**

1. «Customer Name»’s Residential Load means the sum of the loads within the Region eligible for the Residential Exchange Program under the tariff schedules described below, adjusted for distribution losses as determined pursuant to Exhibit D, as such Exhibit D may be revised, supplemented, or superseded. If BPA determines that any action changes «Customer Name»’s general tariffs or service schedules in a manner which would allow loads other than Residential Loads, as defined in the Northwest Power Act, to be included under these tariff schedules, or that the original general tariffs or service schedules include loads other than Residential Loads, such nonresidential loads shall be excluded from this Agreement.

Such tariff schedules as presently effective include:

- (a) for all schedules listed below, include the amount, expressed in kilowatthours, of Residential Load supplied by «Customer Name» under:
- (1) *[schedule]*
  - (2) *[schedule]*
  - (3) *[schedule]*
- (b) a portion of the Residential Load as determined pursuant to section 2 of this Exhibit A, supplied by the Utility under the Northwest Power Act, section 5(c).
2. Any farm’s monthly irrigation and pumping load qualifying hereunder for each billing period shall not exceed the amount of the energy determined by the following formula:

$$\text{Irrigation/Pumping Load} = 400 \times 0.746 \times \text{days in billing period} \times 24$$

**provided, however,** that this amount shall not exceed that farm’s measured energy for the same billing period.

where:

400 is equal to the horsepower limit defined in the Northwest Power Act,  
0.746 is the factor for converting horsepower to kW,  
days in billing period is determined in accordance with prudent and normal utility business practices, and  
24 is the number of hours in a day.

3. When more than one farm is supplied from a common pumping installation, the irrigation and pumping load of the installation shall be allocated among the farms using the installation, based on the method (e.g., water shares, acreage) that the farms use to allocate the power costs among themselves. These allocated loads shall

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then be combined with any other irrigation and pumping loads attributed to the farms under section 2 of this exhibit. In no instance shall any farm's total qualifying irrigation loads for any billing month exceed 222,000 kWh.

4. A farm is defined as a parcel or parcels of land owned or leased by one or more persons (person includes partnerships, corporations, or any legal entity capable of owning farm land) that is used primarily for agriculture. Agriculture is defined to include the raising and incidental primary processing of crops, pasturage, or livestock. Incidental primary processing means those activities necessarily undertaken to prepare agricultural products for safe and efficient storage or shipment. All electrical loads ordinarily associated with agriculture as defined above shall be considered as usual farm use.

Contiguous parcels of land under single-ownership or leasehold shall be considered to be one farm. Noncontiguous parcels of land under single-ownership or leasehold shall be considered as one farm unit unless demonstrated otherwise by the owner or lessee of the parcels as determined by BPA.

Parcels of land may not be subdivided into a larger number of parcels in order to attempt to increase the number of farms. Ownership or leasehold interests in farms may not be changed in order to attempt to increase the number of farms, for example, by leases to family members or establishment of partnerships, corporations or similar devices. Acquisition of a parcel which was previously a separate farm becomes part of the single farm that acquired the parcel. In order for a noncontiguous parcel to constitute a separate farm, the farm must not share any equipment or labor with any other parcel and must maintain separate financial statements, accounting records, and tax returns as of May 1, 2000. Any new farms created after May 1, 2000, must submit an application for exchange benefits to «Customer Name» which shall then submit such application to BPA and such application must be reviewed and approved by BPA before the new farm is eligible to receive benefits. A number of additional factors may be used by BPA to determine whether noncontiguous parcels constitute one or more farms. These factors include but are not limited to:

- use
- ownership
- control
- operating practices
- distance between parcels

5. Unused irrigation allocations may not be reallocated to other farms or to another billing period.
6. The operator of a farm is required to certify to «Customer Name» all irrigation accounts, including horsepower rating for that farm, including all irrigation accounts commonly shared. The operator of a farm is required to provide «Customer Name» and BPA all documentation requested to assist in the farm determination.

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7. This Exhibit A shall be revised to incorporate additional qualifying tariff schedules, subject to BPA's determination that the loads served under these schedules are qualified under the Northwest Power Act.

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**Exhibit B**  
**LOAD FACTOR SPECIFICATION**

Using data from the 60 months prior to the last BPA rate filing, the monthly load factor of «Customer Name» shall be averaged over each seasonal period in BPA's demand charge according to the formula below. The seasonal period is all months of the year that the PF Exchange Rate has the same demand charge.

$$\text{Load Factor} = \frac{E}{D} \times \frac{N}{H} \text{ for each month}$$

where,

- E = the sum of the monthly energy loads in the seasonal periods «Customer Name» filed with the Federal Energy Regulatory Commission (FERC) or other appropriate body for the previous five years.
- D = the sum of the monthly peak demands in the seasonal periods «Customer Name» filed with FERC or other appropriate body for the previous five years.
- N = the number of months in the seasonal period.
- H = the sum of hours in the month for all months in the seasonal period.

If BPA commences billing the majority of its public agency customers on a basis other than monthly coincidental demand, «Customer Name»'s load factor shall be computed from the 60-month historic data using a basis comparable to the billing criteria applied to the majority of public agencies.

The historic data used for load factor computation shall not be adjusted for normal temperature or streamflow. The historic data used for load factor computation shall only include sales to retail loads served from «Customer Name»'s distribution system. «Customer Name» shall provide, at BPA's request, the necessary information regarding the incidence and timing of such sales.

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**Exhibit C**  
**NEW LARGE SINGLE LOADS**

*(Drafter's Note: For each NLSL in this section include the following: the retail electric power consumer name, the facility location, the date the load became a NLSL, a description of the NLSL, and how the NLSL shall be served. If BPA serves the NLSL, Contracted Power will be provided under the NR rate schedule unless the Parties agree to service under a surplus rate schedule, and establishes rates and billing factors in Exhibit D, Additional Products and Special Provisions.)*

**[OPTIONS for section (a).**

*Option 1-Include the following if customer has no existing NLSL.*

1. **«CUSTOMER NAME» HAS NO EXISTING NLSL.**

*Option 2-Include the following if customer has an existing NLSL. The load listed may no longer be considered to be a NLSL if BPA establishes a new NLSL policy (i.e., Klickitat, Goldendale). This should be noted and the right to change the determination should be established.*

1. **«CUSTOMER NAME» HAS AN EXISTING NLSL. THE NLSL IS LISTED BELOW.**

***End of OPTIONS for section (a).]***

2. **«Customer Name» shall serve any NLSLs with resource amounts added consistent with section 4 of Exhibit C, Net Requirements of the Power Sales Agreement (08PB-#####). When «Customer Name» has a NLSL this exhibit shall be revised to include estimated monthly HLH and LLH MWs in a table below.**

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**Exhibit D**  
**AVERAGE SYSTEM COST METHODOLOGY**

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## **Exhibit E SCHEDULING**

### **1. PURPOSE OF THIS EXHIBIT**

The purpose of this exhibit is to identify power scheduling requirements and coordination procedures necessary for the delivery of electric power and energy sold under this Agreement. All provisions apply to Purchasing-Selling Entities (PSEs), including their authorized scheduling agent. Transmission scheduling arrangements are handled under separate agreements/provisions with the designated transmission provider. Nothing in this exhibit is intended to relieve the Parties of any obligation they may have under North American Electric Reliability Council (NERC) or Western Systems Coordinating Council (WSCC) policy, procedure, or guideline.

### **2. COORDINATION: GENERAL, PRESCHEDULE, REAL-TIME, AND AFTER-THE-FACT REQUIREMENTS**

#### **(a) General Requirements**

- (1) The Parties may revise and replace this exhibit by mutual agreement. BPA shall also have the right to revise and replace this exhibit under the following circumstances after providing an opportunity for all affected Parties to discuss and comment on any proposed changes:
  - (1) to comply with rules or orders issued by FERC, NERC, or WSCC or
  - (2) to implement changes reasonably consistent with standard industry practice, but necessary for BPA to administer its power scheduling function.
- (2) PSEs shall have staff available 24 hours a day for each day an active transaction or preschedule is in effect. PSE's must be prepared to verify transactions on an hourly basis if necessary.
- (3) PSEs shall complete the prescheduling and check out processes, and to verify Transactions and associated totals, per NERC tag, and BPA contract.
- (4) Inability to verify Transactions may result in schedule rejection or curtailment.
- (5) PSEs shall verify Transactions and totals after-the-fact (ATF) per both parties' ATF processes.
- (6) BPA is not obligated to accept Transactions that do not comply with the scheduling requirements in this exhibit or the contract.
- (7) Should a PSE attempt to preschedule a Transaction for power for which that PSE has an obligation to provide transmission and fails to properly reserve the transmission necessary to complete the

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Transaction, the PSE will not be excused from its payment obligation, if any, under this Agreement.

- (8) All Transactions shall be stated in WSCC time zone and “hour ending” format.
- (9) All Schedules, except Dynamic Schedules, will be implemented on an hourly basis using the standard ramp as specified by WSCC procedures.
- (10) [Intentionally Omitted]
- (11) Changes to telephone or fax numbers of key personnel (for Prescheduling, Real-Time, Control Area, or Scheduling Agents, etc.) must be submitted to BPA.

### (b) **Prescheduling Requirements**

#### (1) **Information Required For Any Preschedule**

- (A) Unless otherwise mutually agreed, all Transactions will be submitted according to NERC instructions for E-tagging, as modified by WSCC.
- (B) When completing the NERC E-Tag insert the applicable BPA Contract number(s) in the “reference” column of the miscellaneous section of the tag.
- (C) Transactions going to or from COB (California-Oregon Border) must be identified as using Malin or Captain Jack, or COB Hub.

#### (2) **Preschedule Coordination**

- (A) Final hourly preschedules (verbal submission of E-tag information) must be submitted for the next day(s) by 1000 of each Workday, unless otherwise agreed.
- (B) Typically, preschedules are for one to three days. By mutual agreement of the parties, final preschedules may be requested for longer time periods to accommodate special scheduling requirements.
- (C) Under certain operating conditions, either party may require submission of estimated daily preschedules for an ensuing period up to ten days in length, prior to the final preschedule.

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### (c) **Real-Time Requirements**

- (1) PSEs may not make Real-Time changes to the scheduled amounts, including transmission arrangements unless such changes are allowed under individual contract provisions or by mutual agreement.
- (2) If Real-Time changes to the Schedule become necessary, and are allowable as described in section 2(c)(1) above, PSEs must submit such request no later than 30 minutes prior to the hour for which the Schedule change becomes effective.
- (3) Multihour changes to the Schedule shall specify each hour to be changed and shall not be stated as “until further notice.”
- (4) Emergency scheduling and notification procedures (including mid-hour changes) will be handled in accordance with NERC and WSCC procedures.

### (d) **After-the-Fact Reconciliation Requirements**

PSEs agree to reconcile all Transactions, Schedules and accounts at the end of each month (as early as possible within the first ten calendar days of the next month). The parties will verify all Transactions per BPA contract, as to product or type of service, hourly amounts, daily, and monthly totals, and related charges.

## 3. **DEFINITIONS AND ACRONYMS**

Capitalized terms in this Exhibit shall have the meanings defined below, in context, or as used elsewhere in this Agreement.

- (a) **Control Area:** An electrical system bounded by interconnection (tie-line) metering and telemetry. It controls generation directly to maintain its interchange schedule with other control areas and contributes to frequency regulation of the interconnection.
- (b) **Hour Ending:** Designation for one hour periods of time based upon the time which the period ends. For example: the one hour period between 1300 and 1400 is referred to as Hour Ending 1400.
- (c) **Prescheduling:** The process (electronic, oral, and written) of establishing and verifying with all scheduling parties, advance hourly Transactions through the following Workday(s). Preschedules apply to the following day or days (if the following day or days are not Workday(s)).
- (d) **Purchasing-Selling Entity (PSE):** (NERC defined term) An entity that is eligible to purchase or sell energy or capacity and reserve transmission services.

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- (e) **Real-Time:** The hourly or minute-to-minute operation and scheduling of a power system as opposed to those operations which are prescheduled a day or more in advance.
- (f) **Schedule:** The planned Transaction approved and accepted by all PSEs and Control Areas involved in the Transaction.
- (g) **Transaction:** An agreement arranged by a PSE to transfer energy from a seller to a buyer.
- (h) **Workday:** Any day BPA, other regional utilities, and PSEs observe as a working day.

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