

## MASTER REGIONAL DIALOGUE CONTRACT TEMPLATE

This template contains the clauses and contract structure that will be used in the following templates: Load Following, Block, Slice/Block, RPSA, and DSI. It does not contain clauses that are unique to the RPSA and DSI templates nor does it contain provisions unique to the Slice product, which will be created separately.

### How to Read and Understand this Master Template

Read the companion “Summary of Changes from Subscription” to understand why we have made changes from the Subscription templates. Unless a clause is marked “**Reviewer’s Note: This clause is ready for detailed review of contract language**”, the specific language is not ready for comment and should be considered a place-holder. Most sections have not yet been revised to reflect the Regional Dialogue products and policies.

### Color and Font

1. **Pink italicized text** indicates *notes to BPA AEs and contract staff who will tailor the template for each particular customer within the limits stated. Pink, italicized instructions will be deleted by the drafter when the template is converted to a contract for a particular customer and will not become part of the final contract.*
2. **Blue italicized text** indicates *notes to the reviewers of this template. This blue text will be deleted after the draft template is finalized. Blue text may include editorial notes, changes, or suggestions from drafters (i.e., General Counsel or Dale). Version and revision dates are to be in blue.*
3. **Black text** indicates draft contract language. When preceded by the word “**Principle**,” the text is intended to provide a basic understanding of the contract principle that, after further discussion, may be converted to specific contract language.
4. **Red text** indicates where a drafter must ‘fill-in-the-blank.’ This is most often associated with the contract drafter filling in the Customer’s Name.

*Reviewer's Note: Only shaded clauses and exhibits are ready for review*

Contract No. 09PB-«#####»

**POWER SALES AGREEMENT**

executed by the **BONNEVILLE POWER ADMINISTRATION**

and **«FULL NAME OF CUSTOMER»**

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This POWER SALES 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 «\_\_\_\_\_».

## RECITALS

This Agreement will replace Contract No. «\_\_\_\_\_» which continues through September 30, 2011.

BPA has functionally separated its organization in order to functionally separate the administration and decision-making activities of BPA's power and transmission functions. References in this Agreement to Power Services or Transmission Services are solely for the purpose of clarifying which BPA function is responsible for administrative activities that are jointly performed.

The parties agree:

1. **TERM AND TERMINATION** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

This Agreement takes effect on the date signed by the parties and expires on September 30, 2028, unless terminated sooner under section 11(d) or 16(f). See section 3 for the term of power service.

2. **DEFINITIONS** (09/04/07 Version)

*Reviewer's Note: Definitions are ready for detailed review of contract language EXCEPT where noted.*

Capitalized terms that are not listed below are either defined within the section in which the term is used or in BPA's applicable Wholesale Power Rate Schedules, including the General Rate Schedule Provisions (GRSPs).

- (a) *Reviewer's Note: The following definition is NOT ready for review.*  
"Annexation" (09/04/07 Version) means the acquisition from another utility of existing load, existing distribution, and service territory by means of annexation, merger, condemnation, purchase, trade, or a judicial decision.
- (b) "Firm Requirements Power" (10/17/07 Version) means firm power that is sold to «Customer Name» to meet BPA's obligations under sections 5(b), (c), and (d) of the Northwest Power Act, and which BPA makes continuously available. Firm Requirements Power does not include Surplus Firm Power.
- (c) "Fiscal Year" or "FY" (09/04/07 Version) means BPA's fiscal year, which begins each October 1 and ends the following September 30.
- (d) "New Large Single Load" or "NLSL" (09/04/07 Version) means a large single load as defined in section 3(13) of the Pacific Northwest Electric Power

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Planning and Conservation Act of 1980, P.L. 96-501 (Northwest Power Act) and as implemented under BPA's NLSL policy.

- (e) "Points of Delivery" (09/04/07 Version) means the transmission providers delivery point(s).
- (f) "Points of Metering" (10/15/07 Version) means the points at which power is measured.
- (g) "Power Services" (09/04/07 Version) means the organization, or its successor organization, within BPA that is responsible for the management and sale of federal power from the Federal Columbia River Power System.
- (h) "Region" (09/04/07 Version) means the Pacific Northwest as defined in the Northwest Power Act.
- (i) "Surplus Firm Power" (10/17/07 Version) means firm power sold to «Customer Name» that is in excess of BPA's obligations under sections 5(b), (c), and (d) of the Northwest Power Act, and which is not made continuously available. Surplus Firm Power does not include Firm Requirements Power.
- (j) "Total Retail Load" (10/16/07 Version) means all electric power consumption, including electric system losses, within a utility's distribution system as adjusted for:
  - (1) unmetered loads or generation,
  - (2) nonfirm or interruptible loads agreed to by the parties,
  - (3) transfer loads of other utilities served by «Customer Name», and «Customer Name»'s transfer loads located in other control areas, and
  - (4) losses on «Customer Name»'s transmission system.
- (k) "Transmission Services" (09/04/07 Version) means the organization, or its successor organization, within BPA that is responsible for the management and sale of transmission service on the Federal Columbia River Transmission System.

### ***[BEGIN 3. Priority Firm Power Product OPTIONS***

*Drafter's Note: Include in LOAD FOLLOWING template:*

#### **3. LOAD FOLLOWING POWER PRODUCT (10/05/07 Version)**

*Reviewer's Note: This clause is NOT ready for detailed review of contract language.*

From October 1, 2011, through September 30, 2028, BPA shall sell and make available, and «Customer Name» shall purchase, Firm Requirements Power in hourly amounts equal to «Customer Name»'s Total Retail Load minus the output from «Customer Name» and non-«Customer Name» resources listed in Exhibit A, Resource Commitments and Net Requirements, section 2.

*Drafter's Note: Include in **BLOCK and Slice/Block** templates:*

**3. BLOCK POWER PRODUCT (10/05/07 Version)**

*Reviewer's Note: This clause is NOT ready for detailed review of contract language.*

From October 1, 2011, through September 30, 2028, BPA shall sell and make available, and «Customer Name» shall purchase, each hour Firm Requirements Power in amounts established as follows:

[Megawatts priced at Tier 1 rates each month as established in Exhibit B, section 3(a)] + [Total annual average megawatts purchased at Tier 2 rates as established in Exhibit B, section 3(b)]

**END 3. Priority Firm Power Product OPTIONS]**

**4. APPLICABLE RATES (10/02/07 Version)**

*Reviewer's Note: This section is NOT intended for detailed review of contract language and is included to provide our current thinking of the contract principles.*

Purchases under this Agreement may be subject to the following rate schedules: Priority Firm Power (PF), New Resource Firm Power (NR), and Firm Power Products and Services (FPS). Purchases are also subject to the GRSPs, or their successors, and the Tiered Rates Methodology (TRM). Purchases under each rate schedule are established as follows:

(a) **Priority Firm Power Rate**

*Principles:*

- (1) High Water Marks will be identified in Exhibit B, Rate Commitments for Net Requirements Power.
- (2) Amounts of power subject to PF Tier 1 and Tier 2 rates will be established in Exhibit B, Rate Commitments for Net Requirements Power.

(b) **New Resource Firm Power Rate**

*Principle:* Amounts of power subject to the NR rate will be listed in Exhibit B, Rate Commitments for Net Requirements Power.

(c) **Firm Power Products and Services Rate**

**5. TAKE OR PAY (09/04/07 Version)**

*Reviewer's Note: This clause is NOT ready for detailed review of contract language.*

«Customer Name» shall pay for the full amount of power established under section 3 of this Agreement, at the rates applicable to such power, whether or not «Customer Name» took delivery of such power.

**6. UNAUTHORIZED INCREASE CHARGE**

*Reviewer's Note: This clause is NOT ready for detailed review of contract language.*

Power taken by «Customer Name» in excess of power sold under this agreement shall be subject to the Unauthorized Increase Charge for demand and energy consistent with the applicable BPA Wholesale Power Rate Schedules and GRSPs, unless such power is provided under another contract with Power Services. Power

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that has been provided for energy imbalance service pursuant to an agreement between Transmission Services and «Customer Name» will not be subject to an Unauthorized Increase Charge.

### 7. SPECIFIC LOAD TREATMENTS

*Reviewer's Note: This clause is NOT ready for detailed review of contract language.*

- (a) **Annexed Loads**
- (b) **Load Previously Served By Northwest Power Act Sections 5(b)(1)(A) and/or 5(b)(1)(B) Resources**

### *[BEGIN 8. Scheduling OPTIONS*

*Drafter's Note: Include in Load following template only if the customer does not meet the conditions for scheduling described in this section when the contract is executed in 2008.:*

#### 8. SCHEDULING (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language. However, see the Summary of Changes for related issues that we want to discuss with customers.*

«Customer Name» is not required to schedule power unless BPA provides notice that scheduling is necessary for reasons including, but not limited to, the following:

- (a) «Customer Name» serves any portion of its load with non-federal power delivered from outside of «Customer Name»'s distribution system,
- (b) «Customer Name» serves any portion of its load with Surplus Firm Power purchased from BPA, or
- (c) BPA determines that scheduling of power by «Customer Name» is required to comply with changes in any transmission tariff, industry standards, or business practices by a regulatory body whose standards BPA follows. *Todd: I am inclined to retain this condition unless you have a particular reason for deleting it. Some AE's have advised us to make it very clear that we will require customers to schedule under these circumstances.*

In this case, BPA shall add power scheduling provisions as an exhibit to this Agreement.

*Drafter's Note: Include in Block and Slice/Block template. Also include in Load Following template if customer meets the above conditions when contracts are executed in 2008:*

#### 8. SCHEDULING (09/04/07 Version)

«Customer Name» shall schedule power in accordance with Exhibit F, Scheduling.

*END 8. Scheduling OPTIONS]*

9. DELIVERY

*Reviewer's Note: This clause (except section f, Transfer) is ready for detailed review of contract language.*

(a) Definitions

- (1) "Primary Points of Receipt" are the points on the Pacific Northwest transmission system where Firm Requirements Power is forecasted to be made available by Power Services to «Customer Name» for purposes of obtaining a long-term firm transmission contract.
- (2) "Scheduling Points of Receipt" are the points on the Pacific Northwest transmission system where Firm Requirements Power is made available by Power Services to «Customer Name» for purposes of transmission scheduling.
- (3) "Third Party Transmission Provider" means a transmission provider other than BPA or a regional transmission organization that delivers power to «Customer Name»
- (4) "Transfer Service" means the transmission, distribution and other services provided by a Third Party Transmission Provider to deliver electric energy and capacity over its transmission system.

*[BEGIN 9(b) Transmission Service OPTIONS*

(b) Transmission Service

*Drafter's Note: Include the following sentence for customers who are NOT served by transfer:*

- (1) «Customer Name» is responsible for delivery of power from the Scheduling Points of Receipt.

*Drafter's Note: Include the following sentence for customers who are SERVED BY TRANSFER.*

- (1) «Customer Name» is responsible for delivery of power from the Scheduling Points of Receipt, except as provided by BPA under section 9(f), Delivery by Transfer.

*END 9(b) Transmission Service OPTIONS]*

- (2) «Customer Name» shall provide at least 60 days notice to Power Services prior to changing control areas.
- (3) At «Customer Name»'s request, BPA shall provide «Customer Name» with Primary Points of Receipt and other information needed to enable «Customer Name» to obtain long-term firm transmission for delivery of power sold under this Agreement. If required by Transmission Services for purposes of transmission scheduling, Power Services shall provide «Customer Name» with Scheduling Points of Receipt. Power Services has the right to provide power to «Customer

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**Name»** at Scheduling Points of Receipt that are different than the Primary Points of Receipt. BPA shall reimburse **«Customer Name»** for any incremental, direct, non-administrative costs incurred by **«Customer Name»** to comply with delivering Firm Requirements Power from such a Scheduling Point of Receipt to **«Customer Name»**'s load if the following conditions have been met:

- (A) **«Customer Name»** has requested long-term firm transmission service to deliver its Firm Requirements Power using the Primary Points of Receipt and other information provided by Power Services.
- (B) This condition only applies if **«Customer Name»** has long-term Point to Point (PTP) transmission service for delivery of Firm Requirements Power to its load: **«Customer Name»** submitted but was not granted a request to redirect, on a firm basis, its long-term firm PTP transmission service to deliver Firm Requirements Power from the Scheduling Point of Receipt.
- (C) **«Customer Name»**'s transmission schedule was curtailed due to non-firm status under PTP transmission service or its secondary service status under Network Integration transmission service and **«Customer Name»** can provide proof of the reimbursable costs incurred to replace the curtailed schedule.

(c) **Liability for Delivery**

Notwithstanding section 17(i), Hold Harmless, **«Customer Name»** waives any claims against BPA arising under this Agreement for nondelivery of power to any points beyond the applicable Points of Receipt. BPA shall not be liable for any third-party claims related to the delivery of power after it leaves the Points of Receipt. In no event will either party be liable under this Agreement to the other party for damage that results from any sudden, unexpected, changed, or abnormal electrical condition occurring in or on any electric system, regardless of ownership. These limitations on liability apply regardless of whether or not this Agreement provides for transfer service.

*[BEGIN 9(d) Real Power Losses OPTIONS*

*[OPTION 1 for section 9(d).*

*Drafter's Note: Include the following if customer purchases the load following or block products and is NOT served by Transfer.*

(d) **Real Power Losses**(09/03/07 Version)

BPA is responsible for the real power losses necessary to deliver Firm Requirements Power across the Federal Columbia River Transmission System.

*[OPTION 2 for section 9(d).*



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*Drafter's Note: Include the following if customer purchases the load following or block products and is served by Transfer.*

(d) **Real Power Losses (09/03/07 Version)**

BPA is responsible for the real power losses necessary to deliver Firm Requirements Power across the Federal Columbia River Transmission System and the Third Party Transmission Provider's system.

*[OPTION 3 for section 9(d).*

*Drafter's Note: Include the following if customer purchases the Slice/Block product and is NOT served by Transfer.*

(d) **Real Power Losses (10/16/07 Version)**

BPA is responsible for the real power losses necessary to deliver Firm Requirements Power under the Block power product across the Federal Columbia River Transmission System. «Customer Name» shall be responsible for all real power losses associated with the delivery of power under the Slice power product.

*[OPTION 4 for section 9(d).*

*Drafter's Note: Include the following if purchases the Slice/Block product and is served by Transfer.*

(d) **Real Power Losses (10/16/07 Version)**

BPA is responsible for the real power losses necessary to deliver Firm Requirements Power under the Block power product across the Federal Columbia River Transmission System and across the Third Party Transmission Provider's system.

«Customer Name» shall be responsible for all real power losses associated with the delivery of power under the Slice power product except BPA will be responsible for real power losses associated with the delivery of Firm Requirements Power across the Third Party Transmission Provider's system to «Customer Name's» load.

*END 9(d) Real Power Losses OPTIONS]*

(e) **Points of Metering Losses(09/20/07 Version)**

BPA shall adjust measured amounts of power to account for losses, if any, that occur between the points where power enters «Customer Name's» system and the respective Points of Metering.

(f) **Delivery by Transfer**

*Reviewer's Note: This section is not ready for review of contract language.*

*[BEGIN 10. Measurement OPTIONS*

*Drafter's Note: Include in Load following template:*

**10. MEASUREMENT (10/05/07 Version)**

*Reviewer's Note: This clause is ready for detailed review of contract language.*

(a) **Measurement**

«Customer Name» shall purchase and pay for the amount of power measured by the meters listed in Exhibit E, Metering, except that if the parties agree that metering is economically or technologically impractical then:

- (1) if the power «Customer Name» purchases under this Agreement is scheduled into or out of «Customer Name»'s service territory, the parties shall use scheduled amounts to measure the amount of power purchased; and
- (2) if the power «Customer Name» purchases under this Agreement is not scheduled into or out of the «Customer Name»'s service territory, the parties shall use mutually acceptable load profiles to measure the amount of power purchased.

(b) **Meter Data**

(1) **Availability**

Except for «Customer Name»'s meter data recorded by meters owned by BPA, «Customer Name» shall provide BPA with all meter data that BPA determines is necessary to plan, schedule, and bill for power. «Customer Name» authorizes Transmission Services or BPA's shared metering function, as defined by the Federal Energy Regulatory Commission, to provide «Customer Name»'s meter data directly to BPA's power marketing function.

(2) **Access**

For all meters not owned by BPA «Customer Name» shall provide BPA meter data on a schedule determined by BPA. Such data shall be in hourly increments for all meters that record hourly data. «Customer Name» shall give BPA direct, electronic access to meter data from all meters not owned by BPA that are capable of being accessed electronically.

(c) **BPA Owned Meters**

BPA shall operate, maintain, and replace, as necessary, all metering equipment owned by BPA that is needed to plan, schedule, and bill for power. For meters owned by BPA, «Customer Name» authorizes BPA to install at BPA's expense any metering equipment on «Customer Name»'s facilities that is reasonably necessary to plan, schedule and bill for power. «Customer Name» and BPA shall enter into a separate agreement addressing the location, access, maintenance, testing, and liability of the parties with respect to such meters and new meters.

(d) **Non-BPA Owned Meters**

«Customer Name» shall operate, maintain, and replace, as necessary, all non-BPA metering equipment that is needed by BPA to plan, schedule, and bill for power for:

- (1) points of interconnection between «Customer Name»'s system and parties other than BPA.
- (2) all loads that require separate measurement for purposes of planning, scheduling, or billing for power.
- (3) generating resources shown in Exhibit A, Net Requirements, that are interconnected to «Customer Name»'s system.

All meters shall meet American National Standard Institute standards, including, but not limited to C57.13, Requirements for Instrument Transformers and C12.20, Electricity Meters 0.2 and 0.5 Accuracy Classes, or their successors. Any new and replaced meters shall be able to record meter data hourly, store data for a minimum of 45 days, and be accessed electronically. For the purpose of inspection, «Customer Name» shall grant BPA physical access to «Customer Name» meters at BPA's request.

(e) **Notification of New Meters, Changes to Meters, Outages and Load Shifts**

At least 72 hours in advance, «Customer Name» shall e-mail BPA at [mdm@bpa.gov](mailto:mdm@bpa.gov) when the following events are planned to occur on «Customer Name»'s system: (i) installation of a new meter; (ii) changes or updates to an existing meter not owned by BPA; (iii) line or meter outages; and (iv) load shifts. If an unplanned load shift occurs, «Customer Name» shall e-mail BPA at [mdm@bpa.gov](mailto:mdm@bpa.gov) within 72 hours.

*Drafter's Note: Include the following in Block and Slice/Block templates:*

**10. MEASUREMENT (10/05/07 Version)**

*Reviewer's Note: This clause is ready for detailed review of contract language.*

«Customer Name» shall purchase and pay for the amount of power it schedules under this agreement, except that if the parties agree that scheduling is economically or technologically impractical for a particular situation (NLSLs, etc.). «Customer Name» shall pay for and install metering equipment that meets American National Standard Institute standards, including, but not limited to, C57.13, Requirements for Instrument Transformers and C12.20, Electricity Meters 0.2 and 0.5 Accuracy Classes, or their successors.

**END 10. Measurement OPTIONS]**

**11. BILLING AND PAYMENT**

*Reviewer's Note: This clause is ready for detailed review of contract language.*

(a) **Billing**

BPA shall bill «Customer Name» monthly for any electric power and services provided during the preceding month. BPA may send «Customer Name» an estimated bill followed by a final bill. BPA shall send all bills on the bill's

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issue date either electronically or by United States mail. If electronic transmittal of the entire bill is not practical, BPA shall transmit a summary electronically, and send the entire bill by United States mail.

(b) **Payment**

«Customer Name» shall pay all bills electronically in accordance with instructions on the bill. Payment of all bills, whether estimated or final, must be received by the 20<sup>th</sup> day after the issue date of the bill (Due Date). If the 20<sup>th</sup> day is a Saturday, Sunday, or federal holiday, the Due Date is the next business day. If «Customer Name» has made payment on an estimated bill then:

- (1) if the amount of the final bill exceeds the amount of the estimated bill, «Customer Name» shall pay BPA the difference between the estimated bill and final bill by the final bill's Due Date; and
- (2) if the amount of the final bill is less than the amount of the estimated bill, BPA shall pay «Customer Name» the difference between the estimated bill and final bill by the 20<sup>th</sup> day after the final bill's issue date. If the 20<sup>th</sup> day is a Saturday, Sunday, or federal holiday, the difference shall be paid by the next business day.

(c) **Late Payments**

After the Due Date, a late payment charge equal to the higher of:

- (1) the Prime Rate (as reported in the Wall Street Journal in the first issue published during the month in which payment was due) plus 4 percent, divided by 365; or
- (2) the Prime Rate times 1.5, divided by 365;

shall be applied each day to any unpaid balance.

(d) **Termination**

BPA may terminate this Agreement if «Customer Name» is more than three months behind in paying its bills under this Agreement and BPA determines in its sole discretion that «Customer Name» is unable to make the payments owed.

(e) **Disputed Bills**

If «Customer Name» disputes any portion of a bill, «Customer Name» shall provide notice to BPA with a copy of the bill noting the disputed amounts. If any portion of the bill is in dispute, «Customer Name» shall pay the entire bill by the Due Date. Unpaid bills (including both disputed and undisputed amounts) are subject to the late payment charges provided above. If the parties agree, or if it is determined after dispute resolution, that «Customer Name» is entitled to a refund of any portion of the disputed amount, BPA shall make such refund with simple interest computed from the date of receipt of the disputed payment to the date the refund is made. The daily

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interest rate shall equal the Prime Rate (as reported in the Wall Street Journal in the first issue published during the month in which payment was due) divided by 365.

**12. NOTICES AND CONTACT INFORMATION (09/04/07 Version)**

*Reviewer’s Note: This clause is ready for detailed review of contract language.*

- 1. See the “Summary of Change” for a list of notices that require proof of receipt.
- 2. We want to explore with customers the feasibility of adding the ability to deliver notices by email or with electronic signatures.

Any notice required under this Agreement shall be in writing and shall be delivered: (a) in person; or (b) with proof of receipt, by a nationally recognized delivery service or by United States Certified Mail.

Notices are effective when received. The parties shall deliver notices to the following person and address: *(Drafter’s Note: Check BPA address and phone number prefix to ensure it is applicable.)*

If to «Customer Name»:

« Street Address »  
 « P.O. Box »  
 « City, State, Zip »  
 Attn: « \_\_\_\_\_ »  
 « \_\_\_\_\_ »  
 Phone: « - - - »  
 FAX: « - - - »  
 E-Mail: « \_\_\_\_\_ »

If to BPA:

Bonneville Power Administration  
 « Street Address »  
 « P.O. Box »  
 « City, State, Zip »  
 Attn: « \_\_\_\_\_ - \_\_\_\_\_ »  
 Account Executive  
 Phone: « - - - »  
 FAX: « - - - »  
 E-Mail: « \_\_\_\_\_ »

Either party may change the name or address for receipt of notice by providing notice of such change.

**13. COST RECOVERY (09/04/07 Version)**

*Reviewer’s Note: This clause is ready for detailed review of contract language.*

- (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 under-recovery charge pursuant to an applicable transmission rate schedule or otherwise applicable law.
- (b) BPA may adjust the rates for power and services sold under this Agreement pursuant to the cost recovery mechanisms in the Tiered Rates Methodology, BPA’s 2012 power rate schedules, and the 2012 GRSPs, or their successor rate schedules and GRSPs.

**14. UNCONTROLLABLE FORCES (09/04/07 Version)**

*Reviewer’s Note: This clause is ready for detailed review of contract language.*

The parties shall not be in breach of their respective obligations to the extent the failure to fulfill any obligation is due to an Uncontrollable Force. “Uncontrollable

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Force” means an event beyond the reasonable control of, and without the fault or negligence of, the party claiming the Uncontrollable Force, that prevents that party from performing its contractual obligations under this Agreement and which, by exercise of that party’s reasonable diligence and foresight, such party was unable to avoid. Uncontrollable Forces include, but are not limited to:

- (a) any unplanned curtailment or interruption of firm transmission service used to deliver power sold under this Agreement to «Customer Name»;
- (b) any planned curtailment or interruption of long-term firm transmission service used to deliver power sold under this Agreement to «Customer Name» if such curtailment or interruption occurs on BPA's or a third party's transmission system;
- (c) any failure of «Customer Name»'s distribution or transmission facilities that prevents «Customer Name» from delivering power to end-users;
- (d) strikes or work stoppage;
- (e) floods, earthquakes, or other natural disasters; and
- (f) orders or injunctions issued by a court or regulatory body having competent subject matter jurisdiction 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.

If an Uncontrollable Force prevents a party from performing any of its obligations under this Agreement, such party shall: (1) immediately notify the other party of such Uncontrollable Force by any means practicable and confirm such notice in writing as soon as reasonably practicable; (2) use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligation hereunder as soon as reasonably practicable; (3) keep the other party apprised of such efforts on an ongoing basis; and (4) provide written notice of the resumption of performance. Written notices sent under this section must comply with section 12, Notices and Contact Information.

15. **GOVERNING LAW AND DISPUTE RESOLUTION** *(09/04/07 Version)*  
*Reviewer’s Note: This section is not ready for review and will be provided when available.*

16. STATUTORY PROVISIONS

(a) **Retail Rate Schedules** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

«Customer Name» shall provide BPA with its retail rate schedules, as required by section 5(a) of the Bonneville Project Act, P.L. 75-329, within 30 days of each of «Customer Name»'s retail rate schedule effective dates.

(b) **Insufficiency and Allocations** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

If BPA determines, consistent with section 5(b) of the Northwest Power Act and other applicable statutes, that it will not have sufficient resources on a planning basis to serve its loads after taking all actions required by applicable laws then BPA shall give «Customer Name» a written notice that BPA may restrict service to «Customer Name». Such notice shall be consistent with BPA's insufficiency and allocations methodology, published in the Federal Register on March 20, 1996, and shall state the effective date of the restriction, the amount of «Customer Name»'s load to be restricted and the expected duration of the restriction. BPA shall not change that methodology without the written agreement of all public body, cooperative, federal agency and investor-owned utility customers in the Region purchasing federal power from BPA under section 5(b) of the Northwest Power Act. Such restriction shall take effect no sooner than five years after BPA provides notice to «Customer Name». If BPA imposes a restriction under this provision then the amount of Firm Requirements Power that «Customer Name» is obligated to purchase pursuant to section 3 of this Agreement shall be reduced to the amounts available under such allocation methodology for restricted service.

(c) **New Large Single Loads** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

(1) **Determination of an NLSL**

Except as provided in section (2), below, BPA shall determine an increase in production load to be an NLSL if the energy consumption of the end-use consumer's load associated with a single new facility, an existing facility, or expansion of an existing facility during the immediately past consecutive 12 months equals or exceeds by 10 average megawatts (87,600,000 kilowatt-hours) the greater of:

- (A) the end user's energy consumption for such facility for the consecutive 12 months one year earlier; or,
- (B) the amount of the contracted for, or committed to (CF/CT) load of the end-user as of September 1, 1979.

(2) **End-use Consumer Onsite Renewable and Cogeneration Exception**

To reduce an NLSL to less than 10 average megawatts, «Customer Name» may arrange to have its end-use consumer apply an on-site renewable resource or onsite cogeneration facility to an NLSL.

*Reviewer's Note: Additional language will be developed to include data collection provisions, monthly and yearly energy tests, and billing provisions.*

(3) **Determination of a Facility**

BPA shall make a written determination as to what constitutes a single facility, for the purpose of identifying an NLSL, based on the following criteria:

- (A) whether the load is operated by a single end-user;
- (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) consideration of the facts from previous similar situations; and
- (G) any other factors the parties determine to be relevant.

(4) **Administrative Obligations and Rights**

- (A) All «Customer Name»'s NLSLs and CF/CT loads, that exist at the time of execution of this Agreement, are listed in section (5), below. «Customer Name» shall provide reasonable notice to BPA of any expected increase in a single load that may qualify as an NLSL. Upon request from BPA, «Customer Name» shall provide access to its substations and other service locations that BPA needs for purposes of implementing section 3(13) of the Northwest Power Act, including but not limited to making an NLSL, a facility, or a CF/CT determination. «Customer Name» shall also require the end-user to provide BPA physical access to inspect any facility for these purposes. After consultation with «Customer Name», BPA shall unilaterally determine whether the new load or the increase in load is an NLSL. If BPA determines that a load is an NLSL BPA shall

**Comment [k1]:** is there a repercussion if they don't provide notice? Does the retroactive billing policy apply to this too?



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notify «Customer Name» and unilaterally add the NLSL to section (5), below.

### **[BEGIN 16(c)(4) (B) OPTIONS**

*Drafter's Note: Include in Load following template:*

- (B) Before BPA adds an NLSL to section 5, below, «Customer Name» shall elect, in writing, to:
- (i) have BPA serve the NLSL at the NR rate; or
  - (ii) serve the NLSL with a firm resource dedicated to the NLSL that is not already dedicated to serve its firm consumer load in the region.

This election shall be binding on «Customer Name» for the remaining term of this Agreement. If an NLSL is served with a firm resource, «Customer Name» shall add the firm resource consistent with Exhibit A, Resource Commitments and Net Requirements, section 4(f). *Reviewer's Note: This cross reference may be deleted or changed after Exhibit A is drafted.*

*Drafter's Note: Include in Block and Slice/Block templates:*

- (B) Before BPA adds an NLSL to section (5), below, «Customer Name» shall provide written notice to BPA that it shall serve all NLSLs with non-federal firm resources that are not already dedicated to serve its firm consumer load in the region.

«Customer Name» agrees to provide such dedicated firm resources on a continuous basis as identified in Exhibit A, Resource Commitments and Net Requirements. Under no circumstances shall BPA be required to acquire firm power for service to such NLSLs. «Customer Name» shall declare such firm resources consistent with Exhibit A, Resource Commitments and Net Requirements, section 4(f). *Reviewer's Note: This cross reference may be deleted or changed after Exhibit A is drafted.*

### **[END 16(c)(4) (B) OPTIONS]**

- (C) «Customer Name» shall pay for and install all meters, and separately meter all loads, at any facility that is determined by BPA to be an NLSL and all loads that are being monitored by BPA for an NLSL determination. Such meters shall meet the standards of section 10, Measurement. «Customer Name» shall provide BPA meter data recorded by such meters that BPA determines in necessary to plan, schedule, and bill for an NLSL.

- (5) **List of NLSLs and CF/CTs**

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### *[BEGIN 16(c)(5)(a) NLSL OPTIONS*

*Drafter's Note: Include the following if customer has no existing NLSL.*

(A) «Customer Name» has no NLSLs.

*Drafter's Note: Include the following if customer has an existing NLSL.*

(A) «Customer Name» has an existing NLSL:

End User Name:

Facility Location:

Date load determined as an NLSL:

Description of NLSL:

Manner of Service:

*Drafter's Note: The following sub options will be included only in the Load-following template:*

#### *Suboption 1*

«Customer Name» elects to have BPA serve the NLSL at the NR rate. See Exhibit B, Rate Commitments for Net Requirements Power.

#### *Suboption 2*

«Customer Name» elects to serve the NLSL with a firm resource that is not already dedicated to serve its other firm end-user loads. See Exhibit A, Resource Commitments and Net Requirements.

*Drafter's Note: The following will be included only in the Block and Slice/Block templates:*

«Customer Name» elects to serve the NLSL with a firm resource that is not already dedicated to serve its other firm end-user loads. See Exhibit A, Resource Commitments and Net Requirements.

### *END16(c)5(a) NLSL OPTIONS]*

### *[BEGIN 16(c)5(b) CF/CT OPTIONS*

*Drafter's Note: Include the following if customer has no CF/CT loads.*

(B) **CF/CT Loads**

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

*Drafter's Note: Include the following if customer has CF/CT loads.*

(B) **CF/CT Loads**

The Administrator has determined that the following loads were contracted for, or committed to be served (CF/CT), as of September 1, 1979, as defined in section 3(13)(A) of the

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Northwest Power Act, and are subject to the applicable cost based rate for the rest of «Customer Name»'s load:

End user's name:

Amount of firm energy (megawatts at 100 percent load factor) contracted for, or committed to, as of September 1, 1979:

Facility location and description:

*END 16(c)5(b) CF/CT OPTIONS]*

(d) **Priority of Pacific Northwest Customers** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

The provisions of sections 9(c) and (d) of the Northwest Power Act and the provisions of P.L. 88-552 as amended by the Northwest Power Act are incorporated into this Agreement by reference. «Customer Name», together with other customers in the Region, shall have priority to BPA power consistent with such provisions.

(e) **Prohibition on Resale** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

«Customer Name» shall not resell Firm Requirements Power except to serve «Customer Name»'s Total Retail Load or as otherwise permitted by federal law.

(f) **Use of Regional Resources** (09/04/07 Version)

*Reviewer's Note: This clause has not yet been revised for clarity, except for the words in bold. We will make further revisions after customers comment on any particular areas of concern.*

- (1) Within 60 days prior to the start of each Fiscal Year, «Customer Name» shall **provide notice to** BPA of any firm power from a generating resource, or a contract resource during its term, that has been used to serve firm consumer load in the Region that «Customer Name» plans to export for sale outside the Region in the next Fiscal Year. BPA may during such Fiscal Year request additional information on «Customer Name» resources if BPA has information that «Customer Name» may have made such an export and not notified BPA. BPA may request and «Customer Name» shall provide within 30 days of such request, information on the planned use of any or all of «Customer Name»'s generating and contractual resources.
- (2) «Customer Name» shall be responsible for monitoring any firm power from generating resources and contract resources it sells in the Region to ensure such firm power is delivered to be used to serve firm consumer load in the Region.
- (3) If «Customer Name» fails to report to BPA in accordance with section (1), above, any of its planned exports for sale outside the

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Region of firm power from a generating resource or a contract resource that has been used to serve firm consumer load in the Region, and BPA makes a finding that an export which was not reported was made, then BPA may terminate this Agreement upon 30 days **written** notice to «Customer Name». If BPA concludes that the failure to report is inadvertent and unlikely to reoccur BPA shall not terminate this Agreement and may instead elect to decrement the amount of **Firm Requirements Power** sold by up to two times the amount of the export that was not reported. When applicable such decrements shall be established consistent with section 4(c) of Exhibit A, Resource Commitments and Net Requirements. *Reviewer's Note: This cross reference may be deleted or changed after Exhibit A is drafted.*

- (4) For purposes of this section, an export for sale outside the Region means a contract for the sale or disposition of firm power from a generating resource, or a contract resource during its term, that has been used to serve firm consumer load in the Region in a manner that such output is **no longer used or** not planned to be used solely to serve firm consumer load in the Region. Delivery of firm power outside the Region under a seasonal exchange agreement that is made consistent with BPA's section 9(c) policy will not be considered an export. Firm power from a generating resource or contract resource used to serve firm consumer load in the Region means the firm generating or load carrying capability of a generating resource or contract resource as established under Pacific Northwest Coordination Agreement resource planning criteria, or other resource planning criteria generally used for such purposes within the Region.

- (g) **BPA Appropriations Refinancing (09/04/07 Version)**  
*Reviewer's Note: This clause is ready for detailed review of contract language.*

*(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.)*

The parties agree that the Bonneville Power Administration Refinancing section of the Omnibus Consolidated Recisions and Appropriations Act of 1996 (The BPA Refinancing Act), P.L. No. 104-134, 110 Stat. 1321, 350, as stated in the United States Code on the date this Agreement is signed by the parties, is incorporated by reference and is a material term of this Agreement.

### 17. STANDARD PROVISIONS

- (a) **Amendments (09/04/07 Version)**  
*Reviewer's Note: This clause is ready for detailed review of contract language.*

Except where this Agreement explicitly allows for one party to unilaterally amend a provision or exhibit, no amendment 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) **Entire Agreement and Order of Precedence** (09/26/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

This Agreement, including documents expressly incorporated by reference, constitutes 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. The body of this Agreement shall prevail over the exhibits to this Agreement in the event of a conflict.

(c) **Information Exchange and Confidentiality** (09/04/07 Version)

*Reviewer's Note: Only subsection (4), Confidentiality, is ready for detailed review of contract language. However, BPA wants to discuss with customers the contract principles that need to be included in this section. Where possible, we have included specific contract language ONLY to help the discussions and to provide the reviewer an idea of the underlying contract principles BPA is considering. Also, we have not yet determined the appropriate dates to use for reporting purposes and want to use a single date for all types of reporting, if possible. The dates below will be revised after discussion with customers and additional internal discussions.*

(1) **Conservation and Renewables Plans**(10/08/07 Version)

*Reviewer's Note: This section is based on the Regional Dialogues Policy (page 57, section XII, New Long Term Contracts)*

The annual reporting requirements of this subsection are waived if «Customer Name» commits to purchase all of its power from BPA during the next rolling ten year period, beginning October 1, 2010. If «Customer Name» has not already committed under the terms of this contract to this 10-year commitment period, «Customer Name» may do so in writing by November 30<sup>th</sup> for the BPA fiscal year that begins the previous October 1. If «Customer Name» is required by state law to prepare an integrated resource plan, that plan may be submitted to meet the requirements of this subsection if it includes, or is supplemented by, the information required below.

(A) **Conservation** (10/08/07 Version)

*Reviewer's Note: The overall objective of requiring this information is to minimize the cost of conservation resource planning.*

Beginning xx date, and by xx date every year thereafter, «Customer Name» shall submit a 10-year conservation plan including an annual goal for the coming year. «Customer Name» shall put all cost-effective non-BPA-funded conservation measures and projects savings achieved by «Customer Name» into the Regional Technical Forum's Planning, Tracking and Reporting database on an annual basis

**Comment [jpw2]:** Because we will be counting all cost-effective conservation savings from BPA-funded and customer-funded (Policy pg. 30, 2<sup>nd</sup> paragraph, last sentence) we will need to require that information regarding customer-funded conservation be put into the PTR system, as they already put BPA-Funded projects.

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no later than October 30, 2010, and by October 30 every year thereafter.

- (B) **Renewables** *(10/08/07 Version)*  
Beginning June 1, *(Reviewer's Note: June 1 is consistent with Washington reporting requirements, not locked into it)* 2010 and by June 1 each year thereafter, «Customer Name» shall provide BPA with the following:

- (i) Updated information on renewable resources currently under contract or owned by «Customer Name». Such information shall include: project name, fuel type(s), location, date contract signed, project energization date, capacity, capacity factor, remaining term of purchase (or if direct ownership remaining life of the project), and the percentage of output dedicated to «Customer Name»'s loads for the forth coming Fiscal Year.

In addition, customers who are required to report under the Washington State Energy Independence Act 19.285 RCW (or similar reporting requirements imposed by other laws or regulations) shall provide BPA with a copy of their annual renewable energy report as prepared for the Washington State Department of Trade and Economic Development or comparable agencies for other states.

- (ii) An updated long-term renewable resource plan. If «Customer Name» is not otherwise required to publish such a plan or if the published plan does not include information required under this section X.XX (b), then «Customer Name» shall provide BPA with «Customer Name»'s 2-year forecast of expected renewable resource acquisitions. Such forecast shall disclose the capacity of expected acquisitions by fuel type and percentage of output dedicated to «Customer Name»'s loads.

- (2) **Resource Adequacy** *(10/08/07 Version)*  
*Reviewer's Note: The following contract principles are based on the Regional Dialogue Policy (page 43, section IX, Resource Adequacy). It is not ready for detailed review of contract language and will be refined after additional discussions.*  
**Principle:** «Customer Name» shall provide the following data directly to the Pacific Northwest Utilities Conference Committee, or its successor organization, and the Northwest Power and Conservation Council: *data to be determined.*
- (3) **Information Exchange** *(10/08/07 Version)*

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*Reviewer's Note: If there is information required below that is duplicative of any information required in section 1, above, we will eliminate the duplication AFTER the information requirements for each section are determined.*

The parties shall provide each other with any information that is reasonably required to administer this Agreement. This includes scheduling and metering information that is reasonably necessary to prepare power bills, resolve billing disputes, and administer transfer service. «Customer Name» shall also provide BPA with:

**Principle:** These data requirements will be drafted after additional internal discussions and discussions with customers. However, we plan to include in this sub section any data requirements related to calculation of HWMs, Net Requirements, annual reports, etc.

(4) **Confidentiality (09/25/07 Version)**

*Reviewer's Note: This clause is ready for detailed review of contract language.*

BPA may release information provided by «Customer Name» to comply with the Freedom of Information Act (FOIA) or if required by any other federal law or court order. For information that «Customer Name» designates in writing as confidential, BPA will limit the use and dissemination of that information within BPA to employees who need the information for purposes of this Agreement.

(d) **Assignment (09/04/07 Version)**

*Reviewer's Note: This clause is ready for detailed review of contract language.*

This Agreement is binding on any successors and assigns of the parties. Neither party may otherwise transfer or assign this Agreement, in whole or in part, without the other party's written consent. Such consent shall not be unreasonably withheld. BPA's refusal to consent to assignment shall not be considered unreasonable if the sale of power by BPA to the assignee would violate any applicable statute. «Customer Name» may not transfer or assign this Agreement to any of its retail consumers.

(e) **No Third-Party Beneficiaries (10/01/07 Version)**

*Reviewer's Note: This clause is ready for detailed review of contract language.*

This Agreement is made and entered into for the sole benefit of the parties, and the parties intend that no other person or entity shall be a direct or indirect beneficiary of this Agreement.

(f) **Waivers (10/01/07 Version)**

*Reviewer's Note: This clause is ready for detailed review of contract language.*

No waiver of any provision or breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving party, and any

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such waiver shall not be deemed a waiver of any other provision of this Agreement or any other breach of this Agreement.

(g) **BPA Policies** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

*Reviewer's note: This clause was included in Subscription contracts at the request of customers. We will ask them whether they want to include it in the Regional Dialogue contracts.*

Any reference in this Agreement to BPA policies, including any revisions, does not constitute agreement of «Customer Name» to such policy by execution of this Agreement, nor shall it be construed to be a waiver of the right of «Customer Name» to seek judicial review of any such policy.

(h) **Rate Covenant** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

«Customer Name» agrees that it will establish, maintain and collect rates or charges for power and energy and other services, facilities and commodities sold, furnished or supplied by it through any of its electric utility properties. Such rates and charges shall be adequate to provide revenues sufficient to enable «Customer Name» to make the payments required under this Agreement.

(i) **Hold Harmless** (09/04/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language.*

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.



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18. SIGNATURES (10/01/07 Version)

*Reviewer's Note: This clause is ready for detailed review of contract language. We are exploring the feasibility of using electronic signatures for Exhibit revisions. See Summary of Changes.*

The signatories represent that they are authorized to enter into this Agreement on behalf of the party for which they sign.

«FULL NAME OF CUSTOMER»

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

RESOURCE COMMITMENTS AND NET REQUIREMENTS

*Reviewer's Note: This exhibit will replace the Subscription Exhibit C, Net Requirements, and will be drafted later.*

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## Exhibit B

### RATE COMMITMENTS FOR NET REQUIREMENTS POWER

*Reviewer's Note: This exhibit is not intended for detailed review of contract language at this time. Rather, it is included to show structural changes and to provide our current thinking of the contract principles that may form the basis for revisions. In particular, note the addition of HWMs and the tiered PF rate construct.*

*Reviewer's Note: This Exhibit describes the core rates applicable to requirements power only.*

#### 1. DEFINITIONS

#### 2. HIGH WATER MARKS

##### (a) Contract High Water Mark (CHWM)

###### (1) Determination of CHWM

BPA will establish a CHWM for «Customer Name». «Customer Name»'s CHWM will be the basis for determining the maximum amount of annual average megawatts that BPA will sell to «Customer Name» at BPA's Tier 1 PF rates. In FY 2011, BPA will establish «Customer Name»'s CHWM according to the methodology for calculating CHWMs in the Tiered Rates Methodology (TRM).

###### (2) «Customer Name»'s CHWM

In FY 2011, BPA shall update this section with «Customer Name»'s CHWM. Except as described in section (3) below, «Customer Name»'s CHWM is not subject to change.

«Customer Name»'s CHWM	000.00 annual aMW
------------------------	-------------------

###### (3) Changes to CHWM

«Customer Name»'s CHWM will change if «Customer Name» annexes load from a public utility that has a CHWM or if another public utility with a CHWM annexes «Customer Name»'s load. In the event of such an annexation, the annexing utility will receive an amount of the annexed utility's CHWM equal to the percentage that the annexed load represents of the annexed utility's Total Retail Load.

*Principle:* There may be other specific circumstances that could result in changes to CHWMs.

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(b) Rate Period High Water Marks (RHWM)

(1) Determination of RHWM

Prior to each rate period, BPA will establish a RHWM for «Customer Name». «Customer Name»'s RHWM is the maximum amount of annual average megawatts that BPA may sell to «Customer Name» at BPA's Tier 1 PF rates during the corresponding rate period. BPA will establish the methodology for calculating the RHWM in the TRM.

(2) «Customer Name»'s RHWM

«Customer Name»'s RHWM will be derived from «Customer Name»'s CHWM dependent on the size of the FBS. BPA will publish the scaling factor used to determine the RHWM in every rate case. «Customer Name»'s RHWM will equal «Customer Name»'s CHWM multiplied by the published scaling factor. Principle: FBS resources are listed in Exhibit D, Tier 1 FBS Resources.

3. PRIORITY FIRM POWER RATES AND AMOUNTS

[BEGIN 3(a). Tier 1 PF OPTIONS

Drafter's Note: Include in LOAD FOLLOWING template:

(a) Tier 1 PF

From October 1, 2011, through September 30, 2028, the annual average amount of power sold at Tier 1 PF rates will be equal to the lesser of «Customer Name»'s RHWM or «Customer Name»'s net requirement identified in Exhibit A, Resource Commitments and Net Requirements, section 1.

Drafter's Note: Include in BLOCK template:

(a) Tier 1 PF

From October 1, 2011, through September 30, 2028, the annual average amount of power sold at Tier 1 PF rates will be equal to the lesser of «Customer Name»'s RHWM or «Customer Name»'s net requirement identified in section 1 of Exhibit A, Resource Commitments and Net Requirements. Principle: The quantities of power sold each month at Tier 1 rates will be equal to the annual average megawatts multiplied by the monthly shaping factors listed below:

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
XXXX	1.X	0.X	etc...									

END 3(a). Tier 1 PF OPTIONS]

(b) Tier 2 PF

(1) Commitment Periods

Principles:

(A) Transition Period: «Customer Name» will have until November 2009 to commit to whether it will purchase power from BPA at

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Tier 2 rates for at least the first three delivery years of the contract (FY 2012-14).

- (B) **Subsequent Commitment Periods:** «Customer Name» must commit three years prior to each subsequent 5-year commitment period to whether it will purchase power from BPA at Tier 2 rates for at least the next 5 years («Customer Name» must commit prior to October 1, 2012, for FY 2015-19).

(2) **Tier 2 Rate Alternatives**

**Principle:** «Customer Name» can choose from various Tier 2 rate alternatives BPA may offer. Current Tier 2 rate proposals include: Short-Term, Load-Growth, and resource specific vintage(s) including renewables.

(c) **Monthly PF Rates**

Applicable monthly Tier 1 and Tier 2 PF rates are specified in sections XXXX in the Power Rate Schedules.

(d) **Revisions to Priority Firm Power Rates (09/04/07 Version)**

BPA agrees that the rates available to «Customer Name» consistent with this exhibit shall not be subject to revision during their respective terms, except for the application of adjustments, charges, and special rate provisions as provided in the PF applicable rates schedules and GRSPs and this Agreement.

4. **NEW LARGE SINGLE LOADS**

**Principle:** Insert table if NLSL is served with power at the NR rate.

5. **REVISIONS**

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## Exhibit C

### RATE ADJUSTMENTS, ADDITIONAL PRODUCTS, AND SPECIAL PROVISIONS

*Reviewer's Note: Except as noted below, this exhibit is not intended for detailed review of contract language and is included only to show structural changes and to provide our current thinking of the contract principles that may form the basis for revisions.*

#### **Principle:**

- a) This exhibit will include: (1) all customer specific adjustments to core Requirements rates in Exhibit B, Rate Commitments for Net Requirements Power, including resource adjustment charges (if ultimate rate design makes these necessary), (2) FPS products, (3) resource support services, (4) other special provisions.

*(Drafter's Note: Specify additional products or services in this exhibit including the term for the additional product or service if the term of the product or service is different than the full 20 year term of this Agreement.*

1. **IRRIGATION RATE MITIGATION AMOUNTS** (09/04/07 Version) **Reviewer's Note: This clause is ready for detailed review of contract language.**

Subject to the terms specified in BPA's applicable Wholesale Power Rate Schedules and GRSPs, in the months listed below BPA shall apply the Irrigation Discount to the smaller of the corresponding PF amount purchased in the month or the energy amount in Table 1.

**Table 1 – Irrigation Amounts (kWh)**

	May	Jun	Jul	Aug	Sept
HLH Energy					
LLH Energy					

2. **SPECIAL PF RATE TREATMENT**

(a) **Environmentally Preferred Power**

*Reviewer's note: The following principles are a starting point for external discussions.*

#### **Principles:**

- (1) Environmentally Preferred Power (EPP) will not be offered in the Regional Dialogue Agreements when they are executed in 2008 because neither the inventory nor the price will be known until the 2012 rate case. The contracts will include an EPP placeholder to add the EPP purchase to the contract if a customer chooses to purchase EPP at a later date.

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- (2) Under the Subscription contracts, some Subscription customers have the right to a certain amount of EPP through FY 2011 that affect their rights in 2012. Available inventory amounts of EPP will not be known until the FY 2012 rate case. Customers will need to notify BPA prior to each rate period of the amount of EPP they wish to purchase.
- (3) When demand for EPP exceeds supply, a formula for pro rata allocation will be applied.

### 3. RESOURCE SHAPING ADJUSTMENT

**Principle:** If a load following customer chooses to supply load above its RHWL with resources listed in Exhibit A, section 2(b), the Resource Shaping Adjustment will apply to those resources with planned output that is not equal in all hours during the year.

### 4. RESOURCE SUPPORT SERVICES *(09/04/07 Version)*

**Reviewer's Note:** *Following is the text for GMS from Subscription. It is a placeholder and may be substantially revised. NOT READY FOR REVIEW.*

- (a) BPA shall provide Generation Management Service (GMS) for «Customer Name»'s non-dispatchable resources and non-«Customer Name» resources that are used to serve «Customer Name»'s Total Retail Load. Such resources are listed in Exhibit A, Resource Commitments and Net Requirements. The term for GMS begins October 1, 2001, and ends September 30, 20«\_\_». «Customer Name» shall pay «\_\_» dollars each month during the GMS term under the FPS 1996 Rate Schedule, or its successor. *(Drafter's Note: Specify the GMS term and charge. GMS term may not exceed five years.)*
- (b) GMS will meet «Customer Name»'s power requirements during forced outages subject to the following conditions.
  - (1) The power provided is limited to «\_\_» MWh during any Fiscal Year, and «\_\_» MWh during the term for this service. *(Drafter's Note: Specify forced outage limits provided by economist.)*
  - (2) «Customer Name» provides the following: (A) notice of the forced outage within the first hour of its occurrence, unless the parties agree otherwise; (B) the forced outage amount; and (C) the forced outage duration.

The Unauthorized Increase Charge shall be applied to power required for a forced outage if the conditions in sections “#”(b)(1) and (2) are not met. «Customer Name» may request that the forced outage limit be increased if it becomes apparent that either of the limits will be exceeded. If BPA agrees to «Customer Name»'s request BPA shall adjust the GMS charge accordingly. *(Drafter's Note: Specify reference number for this section.)*

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- (c) GMS will only be provided during planned outages that begin « \_\_\_\_\_ » and end by no later than « \_\_\_\_\_ ». If «Customer Name»'s resource has more than one generating unit, «Customer Name» agrees to the following conditions.
- (1) Only one unit will be taken down at any one time for maintenance.
  - (2) Such unit shall not be taken down if any other unit is experiencing a forced outage at that time.

The Unauthorized Increase Charge shall be applied to power required for a planned outage if the conditions in sections “#”(c)(1) and (c)(2) are not met. *(Drafter's Note: Specify reference number for this section and the dates planned outages will occur.)*

- (d) The GMS charge shall not be applied to the following non-«Customer Name» resources. *(Drafter's Note: The AE and customer will decide which resources are not subject to GMS. List the names of resources not subject to GMS below.)*

### 5. REVISIONS *(09/04/07 Version)*

This exhibit shall be revised by mutual agreement of the parties to reflect additional products «Customer Name» purchases during the term of this Agreement.

(BPALAN-PS«X/LOC»-W:\PS«X»\PM\CT\«#####».DOC) «mm/dd/yy» *(Drafter's Note: Insert date of finalized contract here)*



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**Exhibit D  
TIER 1 (FBS) RESOURCES**

***Reviewer's Note:** The Tier 1 (FBS) Resources exhibit is currently under development and will be added when available.*

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## Exhibit E

### METERING (Ready for Review, but see Summary of Changes)

Table 1: Load Meters

Point of Delivery #	Point of Delivery Name	Meter #	Meter Name	Energy Loss Factor	Demand Loss Factor	Direction (for Power Bills)	Metering Location <sup>1/</sup>	Load Control Area <sup>2/</sup>	Manner of Service <sup>1/</sup>
0001	Make Believe (115 kV)	1001	Make Believe Out (12.5 kV)	1.0040	1.0045	+	S' Make Believe Substation	BPAT	Direct - B to S
0001	Make Believe (115 kV)	1002	Make Believe In (12.5 kV)	1.0040	1.0045	-	S' Make Believe Substation	BPAT	Direct - S to B
0002	Pretend (115 kV)	1003	Pretend Feeder Out (115 kV)	1.0000	1.0000	+	E's Pretend Substation (Line 1)	BPAT	Transfer - B to E to S <sup>3/</sup>
0002	Pretend (115 kV)	1004	Pretend Feeder In (115 kV)	1.0000	1.0000	-	E's Pretend Substation (Line 1)	BPAT	Transfer - S to E to B <sup>3/</sup>

Table 2: Resource Meters

Point of Delivery #	Point of Delivery Name	Meter #	Meter Name	Energy Loss Factor	Demand Loss Factor	Direction (for Power Bills)	Metering Location	Load Control Area <sup>2/</sup>	Manner of Service <sup>1/</sup>
0001	Make Believe (115 kV)	1005	Co-Gen In (115 kV)	0.9957	0.9947	+	Co-Gen Plant	BPAT	Directly Connected to S
0001	Make Believe (115 kV)	1006	Co-Gen Out (115 kV)	1.0114	1.0142	-	Co-Gen Plant	BPAT	Directly Connected to S

*Reviewer's Notes\*:*

↑ <i>new</i> (TSRM)*	↑ <i>in Subscription</i> (TSRM)*	↑ <i>new</i> (KSM)*	↑ <i>in Subscription</i> (KSM)*	↑ <i>new</i> (TPC)*	↑ <i>new</i> (TPC)*	↑ <i>new</i> (TPC)*	↑ <i>in Subscription</i> (TOT)*	↑ <i>new</i> (TPC)*	↑ <i>in Subscription</i> (TPC)*
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1/ B = Bonneville Power Administration; E = Example Public Utility District; S = Sample Cooperative

2/ BPAT = BPA Transmission Control Area

3/ BPA provides transfer service for Sample Cooperative over Example Public Utility District's facilities.

*\* Reviewer's Note: Each data element has an owner (data steward) within BPA. TSRM = Oasis Management, TPC = Customer Service Engineers, TOT = Technical Operations, KSM = Metering Services. The Power Account Executives are responsible for validating the Customer-to-Meter relationship and the accuracy of the overall table. TPC will inform the Power AEs and KS of meter data element changes and the exhibit will be updated accordingly.*

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*(Drafter's Note: The following notes and terms are guidelines for developing the Metering Exhibit. Do not include the following in the final exhibit. Footnote 1 should be edited to only have abbreviations needed.)*

### **Standard Footnotes**

- *The revenue meters are owned by \_\_\_\_\_. (Assume revenue meters are owned by BPA, otherwise use this footnote.)*
- *Demand measurements are provided by a totalizing recording demand meter.*
- *Subject to transfer pursuant to Transfer Agreement No. \_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_. (Only if customer is a party to the transfer agreement.)*
- *BPA provides transfer service for «Customer Name» over \_\_\_\_\_'s facilities.*
- *\_\_\_\_\_ provides \_\_\_ kV step-down to \_\_\_ kV delivery service at \_\_\_\_\_'s \_\_\_\_\_ Substation. (Use if utility besides BPA, the Transferor or customer provides the step-down transformation.)*
- *The current and potential transformers are owned by \_\_\_\_\_. (Assume CT's and PT's are owned by the owner of the substation where the metering equipment is located. If not, use this footnote.)*
- *The period of service for meter \_\_\_\_\_ shall commence when the facilities are energized for commercial operation. (Need to be more specific on what facilities, e.g. name the owner and the substation.)*
- *The period of service for meter \_\_\_\_\_ shall end at \_\_\_ hours on \_\_\_\_\_.*
- *This point of delivery is subject to a \_\_\_ kW demand limit.*

### **Standard Terms**

- *“Transfer” means that part of the wheeling of BPA power to the Point of Delivery which is via wheeling paid for by BPA. Usually “T to C” or “T to B to C.”*
- *“Direct” means a non-BPA transmission provider delivers the BPA power at a point of delivery which is between the transmission provider, and customer or an agent for customer. Usually “B to C.”*
- *“Directly Connected” or “Wheeled” means a description of how the resource is connected to customer's system.*
- *“Metering Location” means the location on the system where the power is metered, not the actual location of the meter.*

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## Exhibit F SCHEDULING

*Reviewer's Note: This exhibit is ready for detailed review of contract language.*

### 1. DEFINITIONS

- (a) "Counter Party" (10/01/07 Version) means an entity which has contracted to purchase electric power products from or sell electric power products to BPA.
- (b) "Schedule" (10/01/07 Version) means an agreement to transfer energy between a seller and a buyer. A Schedule includes the following information for delivery and receipt of power between the Source and Sink Balancing Authorities (as defined by NERC) involved in the transaction: (1) size in megawatts, (2) start and end time, and (3) beginning and ending ramp times and rate.

### 2. GENERAL REQUIREMENTS (10/01/07 Version)

Counter Party shall schedule power in accordance with this exhibit and the requirements of the Western Electricity Coordinating Council (WECC), the North American Energy Standards Board (NAESB), and the North American Electric Reliability Corporation (NERC), or their successors or assigns. In the case of conflict between this exhibit and any such requirements, this exhibit shall govern.

### 3. COORDINATION REQUIREMENTS (10/01/07 Version)

#### (a) Prescheduling

"Prescheduling" means the electronic process of submitting and confirming Schedules for the following workday(s). The "Preschedule Day" means the day on which Prescheduling occurs. Counter Party shall submit physical and market paths for Schedules for the following workday(s) to BPA by 1100 Pacific Prevailing Time of each Preschedule Day as shown in the table below, except as specified by WECC (e.g. holidays):

<b><u>If the Preschedule Day is:</u></b>	<b><u>Then the Following Workday(s) is/are:</u></b>
Monday	Tuesday
Tuesday	Wednesday
Wednesday	Thursday
Thursday	Friday, Saturday
Friday	Sunday, Monday

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(b) **Real-Time Scheduling**

- (1) “Real-Time Scheduling” means the verbal and documented process of establishing a new or modified Schedule after Prescheduling is completed. Unless allowed under a specific BPA contract or confirmation agreement, Counter Party shall not make modifications to Schedules in Real-Time Scheduling.
- (2) If a specific confirmation agreement or another contract allows for Real-Time Scheduling, Counter Party shall specify an “hour beginning” and an “hour ending” for all multi-hour changes to a Schedule and shall not state such changes as “until further notice.”

(c) **After the Fact Reconciliation** *(10/01/07 Version)*

“After the Fact” means the process of reconciling all Schedules after they have occurred. Within the first 10 calendar days of the month the parties shall reconcile all Schedules for the previous month by confirming that the following are consistent with the BPA contract or confirmation agreement: (1) products or type of service, (2) hourly, daily and monthly energy totals, and (3) related charges.

(d) **Scheduling on the COB and NOB** *(10/01/07 Version)*

- (1) California-Oregon Border (COB), also called California-Oregon Intertie (COI), consists of the Pacific AC Intertie (PACI or Malin) and the third AC Intertie (3A or Captain Jack) transmission lines to California. When scheduling using the COB transmission path, Counter Party shall use the following designations to indicate the direction of energy flow: “N to S” to indicate energy is flowing north to south on the transmission path from John Day to COB, and “S to N” to indicate energy is flowing south to north on the transmission path from COB to John Day.
- (2) Nevada-Oregon Border (NOB) consists of the Pacific DC Intertie (PDCI or Celilo) transmission lines to California. When scheduling using the NOB transmission path, Counter Party shall use the following designations to indicate the direction of energy flow: “N to S” to indicate energy is flowing north to south on the transmission path from Big Eddy to NOB, and “S to N” to indicate energy is flowing south to north on the transmission path from NOB to Big Eddy.

(e) **Contact Information**

The parties shall notify each other of changes to telephone or fax numbers of scheduling agents and personnel for the following functions: Prescheduling, Real-Time Scheduling, and After-the-Fact.

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### 4. REVISIONS

- (a) BPA may unilaterally revise this exhibit: (i) to comply with requirements of the WECC, NAESB, or NERC, or their successors or assigns, or (ii) to implement changes that are reasonably consistent with standard industry practice and that BPA determines are necessary to administer its power scheduling function.
- (b) Except as provided in 4(c), revisions are effective 45 days after BPA provides written notice of the revisions to Counter Party.
- (c) BPA may provide less than 45 days notice of revisions if, in BPA's sole judgment, less notice is necessary to comply with an emergency change to the requirements of the WECC, NAESB, NERC, or their successors or assigns. In this case, BPA shall specify the effective date of such revisions.