

07/31/08 Revision- RPSA Template

Contract No. 09PB-«#####»

Note: Comments received during the public comment period for the RPSA-specific contract provisions have not yet been incorporated. Interested parties are invited to comment on the shaded portions of this template which were not previously available for comment. Shaded portions are based on the July 25, 2008 version of the master Regional Dialogue Template. Redline edits reflect changes from the ~~June 17~~ July 2 vs. the July 2-31 revision.

Draft RPSA Template

RESIDENTIAL PURCHASE AND SALE AGREEMENT

executed by the

BONNEVILLE POWER ADMINISTRATION

and

«FULL NAME OF CUSTOMER»

Table of Contents

Section	Page
1. Term	
2. Definitions	
3. Applicable PF Rate	
4. Establishment of ASC to Activate Agreement	
5. Offer By «Customer Name» and Purchase By BPA	
6. Offer By BPA and Purchase By «Customer Name»	
7. In-Lieu Transactions	
8. Billing and Payment	
9. Accounting, Review, and Budgeting	
10. Pass-Through of Benefits	
11. Termination of Agreement	
12. Payment Balancing Account	
13. Notices And Contact Information	
14. No Warranty	
145. Uncontrollable Forces	
156. Governing Law and Dispute Resolution	
167. Statutory Provisions	
178. Standard Provisions	
189. Notice Provided to Residential and Small Farm Consumers	
1920. Information Exchange and Confidentiality	
20.21 Adjustments to Monetary Benefits (IOUs only)	
201.21- Restriction on Right To Exchange Costs Of Resources Acquired After September 30, 2006 (Publics only)	
21.222- Signatures	

07/31/08 Revision- RPSA Template

Exhibit A	Residential Load Definition
Exhibit B	Load Factor Specification
Exhibit C	CF/CT and New Large Single Loads
Exhibit D	2008 Average System Cost Methodology
Exhibit E	Power Scheduling

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»), hereinafter individually referred to as “Party” and collectively referred to as the “Parties”. «Customer Name» is a «_____» organized under the laws of the State of «_____».

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 (02/28/08 Version revised for RPSA)

This Agreement takes effect on the date signed by the Parties and expires on September 30, 2028. Performance by the Parties of their obligations under this Agreement shall commence on October 1, 2011.

2. DEFINITIONS (02/28/08 Version)

Capitalized terms below shall have the meaning stated. Capitalized terms that are not listed below are either defined within the section or exhibit in which the term is used or, if not so defined, shall have the meaning stated in BPA’s applicable Wholesale Power Rate Schedules, including the General Rate Schedule Provisions (GRSPs).

2.1 “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.

2.2 “Average System Cost” (02/25/08 Version) 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.

2.3 “ASC Methodology” (03/31/08 Version) 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

07/31/08 Revision- RPSA Template

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.

- 2.4 “Business Day(s)” *(05/13/08 Version)* means every Monday through Friday except federal holidays.
- 2.5 “Contract System Costs” *(02/25/08 Version)* means «Customer Name»’s costs for production and transmission resources, including power purchases and conservation measures, which costs are includable in and subject to Appendix 1. Under no circumstances shall Contract System Costs include costs excluded from ASC by section 5(c)(7) of the Northwest Power Act.
- 2.6 “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.
- 2.7 “Diurnal” or “Diurnally” *(07/01/08 Version)* means the distribution of hours of months between Heavy Load Hours (HLH) and Light Load Hours (LLH). *(02/25/08 Version)* means the division of hours of the day between Heavy Load Hours (HLH) and Light Load Hours (LLH).
- 2.8 “Due Date” *(05/25/08 Version)* shall have the meaning as described in section 8.3 of this Agreement.
- 2.9 “Effective Date” *(06/05/08 Version)* means the date on which this Agreement has been signed by «Customer Name» and BPA.
- 2.109 “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, 2011.
- 2.110 “Fiscal Year” or “FY” *(2/28/08 Version)* means the period beginning each October 1 and ending the following September 30.
- 2.124 “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.
- 2.13 “~~2.132~~ Heavy Load Hours (HLH)” *(07/15/08 Version)* means hours ending 0700 - 2200 (6 a.m. - 10 p.m.) Pacific Prevailing Time (PPT), Monday through Saturday, excluding holidays as designated by the North American Electric Reliability Corporation (NERC). BPA may update this definition as

07/31/08 Revision- RPSA Template

necessary to conform to standards of the Western Electricity Coordinating Council (WECC), North American Energy Standards Board (NAESB), or NERC.

2.14 “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.

~~2.1453~~ “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).

~~2.156~~ “Issue Date” (07/17/08 Version) shall have the meaning as described in section 8.2.

~~2.17~~ ~~2.164~~ “Light Load Hours (LLH)” (07/15/08 Version) means: (1) hours ending 0100 - 0600 (12:00 midnight through 6:00 a.m.) and 2300 - 2400 (10 p.m. - 12:00 midnight) PPT, Monday through Saturday, and (2) all hours on Sundays and holidays as designated by NERC. BPA may update this definition as necessary to conform to standards of the WECC, NAESB, or NERC.

2.18 “New Large Single Load” or “NLSL” (06/05/08 Version) has the meaning specified in section 3(13) of the Northwest Power Act and in BPA’s NLSL policy.

~~2.1975~~ “Northwest Power Act” (02/25/08 Version) means the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96-501, as may be amended.

~~2.20186~~ “Region” (09/04/07 Version) means the Pacific Northwest as defined in the Northwest Power Act.

~~2.21197~~ “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.

~~2.22018~~ “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.

~~2.23119~~ “Residential Load Eligible for Monetary Benefits” means the monthly amounts of Residential Load determined pursuant to Exhibit A, Residential Load Definition, less:

07/31/08 Revision- RPSA Template

- (1) any amounts of Residential Load with respect to which BPA has issued a notice of the election, pursuant to section 7.2 below, to acquire In-Lieu Power and «Customer Name» has elected to receive the In-Lieu PF Power pursuant to section 7.3 below; or
- (2) any amounts of Residential Load -served by In-Lieu PF Power pursuant to section 7.3 below.

2.2420 “Transmission Component of ASC” (02/25/08 Version) means the portion of «Customer Name»’s ASC attributable to transmission, as described in the In-Lieu Power Policy.

2.2531 “Uncontrollable Force” (03/31/08 Version) shall have the meaning specified in section 15.

3. APPLICABLE PF RATE (03/31/08 Version, Revised for RPSA)

Purchases 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 PARTICIPATION (04/03/08 Version)

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, 2011.

5. OFFER BY «CUSTOMER NAME» AND PURCHASE BY BPA (04/03/08 Version)

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.

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.

07/31/08 Revision- RPSA Template

6. OFFER BY BPA AND PURCHASE BY «CUSTOMER NAME» (04/03/08 Version)

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 (04/03/08 Version)

7.1 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.

7.2 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.

7.2.1 Source(s) of In-Lieu Power

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

7.2.2 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 the time it files an Appendix 1 under this Agreement in the manner described in section 7.6 below. BPA may issue an in-lieu notice for all or a percentage portion of «Customer Name»'s Residential Load.

7.2.3 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

07/31/08 Revision- RPSA Template

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 Electricity 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.

7.2.4 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.

7.3 «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 7.2 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 7.3 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.

7.4 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,

07/31/08 Revision- RPSA Template

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.

7.5 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 Exhibit E, Power Scheduling.

7.6 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 *(04/03/08 Version)*

- 8.1 «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.

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.

8.2 Billing *(02/28/08 Version revised for RPSA)*

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

07/31/08 Revision- RPSA Template

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. ~~The Issue Date is the date BPA electronically shall send all the bills to «Customer Name» on the bill's issue date.~~ 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.

8.3 Payment (3/26/08 Version)

«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 20th day after the ~~i~~Issue ~~d~~Date of the bill (Due Date). If the 20th 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 20th day after the final bill's ~~i~~Issue ~~d~~Date. If the 20th day is a Saturday, Sunday, or federal holiday, BPA shall pay the difference by the next Business Day.

8.4 Late Payments (03/26/08 Version)

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

- (1) the Prime Rate (as reported in the Wall Street Journal or successor publication 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.

8.5 Disputed Bills (5/14/08 Version, Revised for RPSA)

8.5.1 If «Customer Name» disputes any portion of a charge or credit on «Customer Name»'s estimated or final bill, «Customer Name» shall provide notice to BPA with a copy of the bill noting the disputed amounts. Notwithstanding whether ~~if~~ any portion of the bill is in dispute, «Customer Name» shall pay the entire bill by the Due Date. Unpaid amounts on a bill (including both disputed and undisputed amounts) are subject to the late payment charges provided above.

07/31/08 Revision- RPSA Template

Notice of a disputed charge on a bill does not constitute BPA's agreement that a valid claim under contract law has been stated.

- 8.5.2 If the Parties agree, or if after a final determination of a dispute pursuant to section 16, Governing Law and Dispute Resolution resolution «Customer Name» is entitled to a refund of any portion of the disputed amount, then 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 interest rate shall equal the Prime Rate (as reported in the Wall Street Journal or successor publication in the first issue published during the month in which payment was due) divided by 365.
- 8.5.3 BPA may require that «Customer Name» supply BPA with commercially reasonable credit information for purposes of In Lieu transactions. 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 (04/03/08 Version)

«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:

- (1) «Customer Name»'s ASC as determined pursuant to the ASC Methodology;
- (2) identification of the consumers that comprise «Customer Name»'s Residential Load;
- (3) the amount of Residential Load Eligible for Monetary Benefits invoiced to BPA; and
- (4) 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 pass-through 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

07/31/08 Revision- RPSA Template

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 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 8.4 above.

10. PASS-THROUGH OF BENEFITS (04/03/08 Version)

- 10.1 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).
- 10.2 Benefits shall be passed through by «Customer Name» in a timely manner, as set forth in this section 10.2 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, 2011. The amount of benefits held in the account described in section 10.3 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.
- 10.3 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 10.1 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).
- 10.4 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.

07/31/08 Revision- RPSA Template

11. TERMINATION *(03/31/08 Version)*

- 11.1 «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.

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.

- 11.2 «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.
- 11.3 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 *(02/25/08 Version)*

12.1 **Balancing Account (BA)**

The account balance, if any, is deemed to be \$« » on October 1, 2011, 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, 2011, 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, 2011, to reflect actual monthly changes

07/31/08 Revision- RPSA Template

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)

$$\text{BA adjustment}_{m+1} = \{\text{CPI}_m / \text{CPI}_{m-1} - 1\} * \text{BA_B}_m$$

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:

$$\text{BA_B}_{m+1} = \text{BA_B}_m + \text{BA adjustment} + P$$

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.

12.2 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.

12.3 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.

07/31/08 Revision- RPSA Template

«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.

12.4 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.

13. NOTICES AND CONTACT INFORMATION (06/13/08 Version)

Any notice required under this Agreement that requires such notice to be provided under the terms of this section shall be provided in writing to the other Party in one of the following ways:

- (1) delivered in person;
- (2) by a nationally recognized delivery service with proof of receipt;
- (3) by United States Certified Mail with return receipt requested;
- (4) electronically, if both Parties have means to verify the electronic notice's origin, date, time of transmittal and receipt; or,
- (5) by another method agreed to by the Parties.

Notices are effective when received. Either Party may change the name or address for delivery of notice by providing notice of such change or other mutually agreed method. 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»:

«Utility Name»
«Street Address»
«P.O. Box »
«City, State, Zip»
Attn: «Contact Name»
«Contact Title»
Phone: «###-###-####»
FAX: «###-###-####»
E-Mail: «E-mail address»

If to BPA:

Bonneville Power Administration
«Street Address»
«P.O. Box»
«City, State, Zip»
Attn: «AE Name - Routing»
«Senior» Account Executive
Phone: «###-###-####»
FAX: «###-###-####»
E-Mail: «E-mail address»

14. NO WARRANTY (3/26/08 Version)

Reviewer's Note: This section is based on the Regional Dialogue Policy (page 52, section XI, Dispute Resolution)

~~Nothing in this Agreement, or any dispute arising out of this Agreement, shall limit the Administrator's responsibility to establish rates to recover costs and timely repay the U.S. Treasury or to take actions that are effectively required by a court order. It is the Parties' intent to structure a durable commercial relationship that is~~

07/31/08 Revision- RPSA Template

~~based on existing statutory requirements and to provide «Customer Name» with protection against change to those guiding statutes as is reasonably possible. However, BPA does not warrant or represent that this Agreement is immune from costs imposed by court order or agency regulations of a general and public nature or is immune from subsequently enacted legislation.~~

145. UNCONTROLLABLE FORCES *(05/14/08 Version, Revised for RPSA)*

14.1 A Party shall not be in breach of an obligation under this Agreement to the extent its failure to fulfill the obligation is due to an Uncontrollable Force. "Uncontrollable Force" means an event beyond the reasonable control, and without the fault or negligence, of the Party claiming the Uncontrollable Force, that prevents that Party from performing its obligations under this Agreement and which that Party could not have avoided by the exercise of reasonable care, diligence and foresight. Uncontrollable Forces include each event listed below, to the extent it satisfies the foregoing criteria, but are not limited to these listed events:

- (1) any curtailment or interruption of firm transmission service on BPA's or a Third Party Transmission Provider's System that prevents delivery of Firm Requirements Power sold under this Agreement to «Customer Name»;
- (2) any failure of «Customer Name»'s distribution or transmission facilities that prevents «Customer Name» from delivering power to end-users;
- (3) strikes or work stoppage;
- (4) floods, earthquakes, other natural disasters, or terrorist acts; and
- (5) final orders or injunctions issued by a court or regulatory body having 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 having subject matter jurisdiction.

14.2 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.

14.3 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;

07/31/08 Revision- RPSA Template

(2) use commercially reasonable 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 13, Notices and Contact Information.

~~15.1 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 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:~~

~~(1) any unplanned curtailment or interruption of firm transmission service used to deliver power sold under this Agreement to «Customer Name»;~~

~~(2) 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;~~

~~(3) any failure of «Customer Name»'s distribution or transmission facilities that prevents «Customer Name» from delivering power to end users;~~

~~(4) strikes or work stoppage;~~

~~(5) floods, earthquakes, other natural disasters, or terrorist acts; and~~

~~(6) final 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.~~

~~15.2 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~~

07/31/08 Revision- RPSA Template

~~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.~~

~~15.3 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 13, Notices and Contact Information.~~

156. GOVERNING LAW AND DISPUTE RESOLUTION (05/16/08 version revised for RPSA)

This Agreement shall be interpreted consistent with and governed by federal law. «Customer Name» and BPA shall identify issue(s) in dispute arising out of this Agreement and make a good faith effort to negotiate a resolution of such disputes before either may initiate litigation or arbitration. Such good faith effort shall include discussions or negotiations between the Parties' executives or managers. Pending resolution of a contract dispute or contract issue between the Parties or through formal dispute resolution of a contract dispute arising out of this Agreement, the Parties shall continue performance under this Agreement unless to do so would be impossible or impracticable. Unless the Parties engage in binding arbitration as provided for in this section 15, the Parties reserve their rights to individually seek judicial resolution of any dispute arising under this Agreement.

15.1 Judicial Resolution

Final actions subject to section 9(e) of the Northwest Power Act are not subject to arbitration under this Agreement and shall remain within the exclusive jurisdiction of the United States Court of Appeals for the Ninth Circuit. Such final actions include, but are not limited to, the establishment and the implementation of rates and rate methodologies. Any dispute regarding any rights or obligations of «Customer Name» or BPA under any rate or rate methodology, or BPA policy, including the implementation of such policy, shall not be subject to arbitration under this Agreement. For purposes of this section 15, 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 or regulation. If BPA determines that a dispute is excluded from arbitration under this section 15, then «Customer Name» may

07/31/08 Revision- RPSA Template

apply to the federal court having jurisdiction for an order determining whether such dispute is subject to nonbinding arbitration under this section 15.

15.2 Arbitration

Any contract dispute or contract issue between the Parties arising out of this Agreement, which is not excluded by section 15.1 above, shall be subject to arbitration, as set forth below.

«Customer Name» may request that BPA engage in binding arbitration to resolve any dispute. If «Customer Name» requests such binding arbitration and BPA determines in its sole discretion that binding arbitration of the dispute is appropriate under BPA's Binding Arbitration Policy or its successor, BPA shall engage in such binding arbitration, provided that the remaining requirements of this section 15.2 and sections 15.3 and 15.4 are met. BPA may request that «Customer Name» engage in binding arbitration to resolve any dispute. In response to BPA's request, «Customer Name» may agree to binding arbitration of such dispute, provided that the remaining requirements of this section 15.2 and sections 15.3 and 15.4 are met. Before initiating binding arbitration, the Parties shall draft and sign an agreement to engage in binding arbitration, which shall set forth the precise issue in dispute, the amount in controversy, if any, and the maximum monetary award allowed, pursuant to BPA's Binding Arbitration Policy or its successor.

Nonbinding arbitration shall be used to resolve any dispute arising out of this contract that is not excluded by 15.1 above and is not resolved via binding arbitration, unless «Customer Name» notifies BPA that it does not wish to proceed with nonbinding arbitration.

15.3 Arbitration Procedure

Any arbitration shall take place in Portland, Oregon, unless the Parties agree otherwise. The Parties agree that a fundamental purpose for arbitration is the expedient resolution of disputes; therefore, the Parties shall make best efforts to resolve an arbitrable dispute within one year of initiating arbitration. The rules for arbitration shall be agreed to by the Parties.

15.4 Arbitration Remedies

The payment of monies shall be the exclusive remedy available in any arbitration proceeding, provided however, that this shall not be interpreted to mean that the object of arbitration cannot simply be the determination of facts. Under no circumstances shall specific performance be an available remedy against BPA.

15.5 Finality

15.5.1 In binding arbitration, the arbitration award shall be final and binding on the 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 award

07/31/08 Revision- RPSA Template

rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

15.5.2 In nonbinding arbitration, the arbitration award is not binding on the Parties. Each Party shall notify the other Party within 30 calendar days, or such other time as the Parties otherwise agreed to, whether it accepts or rejects the arbitration award. Subsequent to nonbinding arbitration, if either Party rejects the arbitration award, either Party may seek judicial resolution of the dispute, provided that such suit is brought no later than 395 calendar days after the date the arbitration award was issued.

15.6 Arbitration Costs

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

~~This Agreement shall be interpreted consistent with and governed by federal law. The Parties shall identify issue(s) in dispute and make a good faith effort to negotiate a resolution of disputes before either Party may initiate litigation or arbitration. Such good faith effort shall include discussions or negotiations between the Parties' executives or managers. Pending resolution of a contract dispute or contract issue between the Parties or through formal dispute resolution of a contract dispute arising out of this Agreement, the Parties shall continue performance under this Agreement unless to do so would be impossible or impracticable. Unless Parties elect binding arbitration, the Parties reserve their rights to seek judicial resolution of any dispute arising under this Agreement.~~

16.1—Judicial Resolution

~~Final actions subject to section 9(e) of the Northwest Power Act are not subject to arbitration under this Agreement and shall remain within the exclusive jurisdiction of the United States Ninth Circuit Court of Appeals. Such final actions include, but are not limited to, the establishment and implementation of rates and rate methodologies. 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. For purposes of this section 16, Governing Law and Dispute Resolution, 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, Governing Law and Dispute Resolution, then both Parties shall apply to the federal court having jurisdiction for an order determining whether such dispute is subject to arbitration under this section 16, Governing Law and Dispute Resolution.~~

07/31/08 Revision- RPSA Template

16.2 ~~Arbitration~~

~~Any contract dispute or contract issue between the Parties arising out of this Agreement, which is not excluded by section 16.1 above, shall be subject to arbitration, as set forth below.~~

~~The Parties may agree to use binding arbitration, consistent with BPA's Binding Arbitration Policy or its successor, to resolve disputes that the Parties agree are strictly issues of fact and that fall within BPA's Binding Arbitration Policy or its successor. Before initiating binding arbitration, the Parties shall draft and sign an agreement to engage in binding arbitration, which shall set forth the precise issue in dispute, the amount in controversy, and the maximum monetary award allowed, pursuant to BPA's Binding Arbitration Policy or its successor.~~

~~Nonbinding arbitration shall be used to resolve any dispute that is not excluded by 16.1 above, and is not resolved via binding arbitration.~~

16.3 ~~Arbitration Procedure~~

~~Any arbitration shall take place in Portland, Oregon, unless the Parties agree otherwise. The Parties agree that a fundamental purpose for arbitration is the expedient resolution of disputes; therefore, the Parties shall make best efforts to resolve an arbitrable dispute within one year of initiating arbitration. The rules for arbitration shall be agreed to by the Parties.~~

16.4 ~~Arbitration Remedies~~

~~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.~~

16.5 ~~Finality~~

~~16.5.1 In binding arbitration, 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 award rendered by the arbitrators may be entered by any court having jurisdiction thereof.~~

~~16.5.2 In nonbinding arbitration, the arbitration award is not binding on the Parties. Subsequent to nonbinding arbitration, if a Party other than BPA rejects the arbitration award or if BPA rejects the arbitration award, the Party may seek judicial resolution of the dispute.~~

16.6 ~~Arbitration Costs~~

~~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 the arbitrator(s) deem reasonable taking into account the circumstances of the case, the conduct of the Parties during the proceeding, and the result of the arbitration.~~

07/31/08 Revision- RPSA Template

167. STATUTORY PROVISIONS

167.1 Retail Rate Schedules (09/04/07 Version)

«Customer Name» shall make its retail rate schedules available to BPA, 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. This requirement may be satisfied by «Customer Name» informing BPA of its public website where such information is posted and kept current.

167.2 New Large Single Loads and CF/CTs

167.2.1 Determination of an NLSL (05/15/08 revised for RPSA)

In accordance with BPA's NLSL Policy, BPA may determine that a load is an NLSL as follows:

167.2.1.1 BPA shall determine an increase in production load to be an NLSL if any load associated with a new facility, an existing facility, or an expansion of an existing facility, which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or federal agency customer prior to September 1, 1979, and which will result in an increase in power requirements of such customer of ten average megawatts (87,600,000 kilowatt hours) or more in any consecutive 12 month period. 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 a MW (87,600,000 kilowatt hours) the greater of:

(1) the end use consumer's energy consumption for such facility for the consecutive 12 months one year earlier, or

(2) the amount of the contracted for, or committed to (CF/CT) load of the end use consumer as of September 1, 1979.

167.2.1.2 For the sole purpose of computing the increase in energy consumption between any two consecutive 12-month periods of comparison under this section 167.2.1 reductions in the end-use consumer's load associated with a facility during the first 12-month period of comparison due to unusual events reasonably beyond the control of the end-use consumer shall be determined by BPA, and the energy consumption shall be computed as if such reductions had not occurred.

07/31/08 Revision- RPSA Template

167.2.1.3 The Parties may agree that the installed production equipment at a facility will exceed 10 average megawatts MW consumption over any 12 consecutive months and such agreement shall constitute a binding NLSL determination.

167.2.2 Determination of a Facility (09/04/07 Version)

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:

- (1) whether the load is operated by a single end-use consumer;
- (2) whether the load is in a single location;
- (3) whether the load serves a manufacturing process which produces a single product or type of product;
- (4) whether separable portions of the load are interdependent;
- (5) whether the load is contracted for, served or billed as a single load under «Customer Name»'s customary billing and service policy;
- (6) consideration of the facts from previous similar situations; and
- (7) any other factors the Parties determine to be relevant.

167.2.3 Administrative Obligations and Rights (4/06/08 Version, Revised for RPSA)

Drafter's Note: If customer has a new or existing NLSL or CF/CT, include details of the NLSL or CF/CT and the manner of service in Exhibit D, Additional Products and Special Provisions.

167.2.3.1 «Customer Name»'s ~~NLSLs and~~ CF/CT loads ~~and NLSLs~~ are listed in Exhibit C, CF/CT and New Large Single Loads.

167.2.3.2 «Customer Name» shall provide reasonable notice to BPA of any expected increase in a single load that may qualify as an NLSL. The Parties shall list any such potential NLSLs in Exhibit C, ~~CF/CT and New Large Single Loads~~. If BPA determines that any load associated with a single facility ~~that~~ is capable of growing 10 average megawatts MW or more in a consecutive 12-month period, then such load shall be subject to monitoring as determined by BPA.

167.2.3.3 When BPA makes a request, «Customer Name» shall provide physical access to its substations and other service locations where BPA needs to perform inspections or gather

07/31/08 Revision- RPSA Template

information for purposes of implementing section 3(13) of the Northwest Power Act, including but not limited to making a final NLSL, facility, or CF/CT determination. «Customer Name» shall ~~make a request to~~ ~~also require~~ the end-use consumer to provide BPA, ~~at reasonable times~~, physical access to inspect ~~any~~ facility for these purposes.

167.2.3.4 Unless the Parties agree pursuant to section 17.2.1.3 above, BPA shall ~~unilaterally~~ determine whether a new load or an increase in existing load at a facility is an NLSL. If BPA determines that the load is an NLSL, BPA shall notify «Customer Name» and the Parties shall add the NLSL to Exhibit C, CF/CT and New Large Single Loads.

167.2.4 Metering an NLSL *(03/30/08 Version)*

For any loads that are monitored by BPA for an NLSL determination, and at any facility that is determined by BPA to be an NLSL, ~~BPA may, in its sole discretion, install~~ «Customer Name» ~~agrees to either consent to BPA installing~~ BPA owned meters. ~~If the Parties agree otherwise, or~~ «Customer Name» ~~may~~ shall install meters meeting the exact specification BPA provides to «Customer Name». «Customer Name» and BPA shall enter into a separate agreement for the location, ownership, cost responsibility, access, maintenance, testing, replacement and liability of the Parties with respect to such meters. «Customer Name» shall arrange for metering locations that allow accurate measurement of the facility's load. «Customer Name» shall arrange for BPA to have physical access to such meters and «Customer Name» shall ensure BPA has access to all NLSL meter data that BPA determines is necessary to forecast, plan, schedule, and bill for power.

167.2.5 Undetermined NLSLs *(04/06/08 Version, Revised for RPSA)*

If BPA concludes in its sole judgment that «Customer Name» has not fulfilled its obligations, ~~or has not been able to obtain access or information from the end-use consumer~~, under sections 167.2.3 and 167.2.4, BPA may determine any load subject to NLSL monitoring to be an NLSL. Such NLSL determination shall be final unless «Customer Name» proves to BPA's satisfaction that the applicable load did not exceed 10 aMW in any 12-month monitoring period.

167.3 BPA Appropriations Refinancing *(05/14/08 Version)*

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

07/31/08 Revision- RPSA Template

178. STANDARD PROVISIONS (revised for RPSA)

178.1 Amendments (09/04/07 Version)

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.

178.2 Entire Agreement and Order of Precedence (09/26/07 Version)

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. 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.

178.3 Assignment (03/28/08 Version, Revised for RPSA)

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. Without limiting the foregoing, 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.

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

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.

178.5 Waivers (10/01/07 Version)

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

178.6 BPA Policies (09/04/07 Version)

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.

189. NOTICE PROVIDED TO RESIDENTIAL AND SMALL FARM CONSUMERS (02/25/08 Version)

«Customer Name» will ensure that any entity that issues customer bills to «Customer Name»'s residential and small farm consumers shall provide written

07/31/08 Revision- RPSA Template

notice on such customer bills that the benefits of this Agreement are “Federal Columbia River Benefits supplied by BPA.”

1920. INFORMATION EXCHANGE AND CONFIDENTIALITY (02/25/08 Version revised for RPSA)

1920.1 Information Exchange

Upon request, Each Party shall provide the other Party with any information that is necessary to administer this Agreement. Such information shall be provided in a timely manner.

1920.2 Confidentiality (01/1707/24/08 Version)

Before «Customer Name» provides information to BPA that is confidential, or is otherwise subject to a ~~privilege of confidentiality~~ or nondisclosure to BPA, «Customer Name» shall clearly designate such information as confidential. BPA shall notify «Customer Name» as soon as practicable of any request received under the Freedom of Information Act (FOIA), or under any other federal law or court or administrative order, for any confidential information. BPA shall only release such confidential information to comply with FOIA or if required by any other federal law or court or administrative order. BPA shall limit the use and dissemination of confidential information within BPA to employees who need it for purposes of administering this Agreement.

Drafter’s Note: Include the following section 21 ONLY for IOUs

201. 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 21 for IOUs only

Drafter’s Note: Include the following section 21 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.

201. 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 21 for public customers only

212. SIGNATURES (10/01/07) Version

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

07/31/08 Revision- RPSA Template

«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 _____

(PS«X/LOC»- «File Name with Path».DOC) «mm/dd/yy» *{Drafter's Note: Insert date of finalized contract here}*

07/31/08 Revision- RPSA Template

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, 2008 Average System Cost Methodology, as 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:

- (1) for all schedules listed below, include the amount, expressed in kilowatt-hours, of Residential Load supplied by «Customer Name» under:
 - (A) «schedule»
 - (B) «schedule»
 - (C) «schedule», and
 - (2) a portion of the Residential Load as determined pursuant to section 2 of this exhibit, supplied by the Utility under the Northwest Power Act, section 5(c).
2. Any farm's monthly irrigation and pumping load qualifying under this Agreement 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 then be combined with any other irrigation and pumping loads attributed to the

07/31/08 Revision- RPSA Template

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:

- (1) use,
 - (2) ownership,
 - (3) control,
 - (4) operating practices, and
 - (5) 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

07/31/08 Revision- RPSA Template

commonly shared. The operator of a farm is required to provide «Customer Name» and BPA all documentation requested to assist in the farm determination.

7. This exhibit 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.

(PS«X/LOC»- «File Name with Path».DOC) «mm/dd/yy» *{Drafter's Note: Insert date of finalized contract here}*

07/31/08 Revision- RPSA Template

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 5 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.

(PS«X/LOC»- «File Name with Path».DOC) «mm/dd/yy» *{Drafter's Note: Insert date of finalized contract here}*

07/31/08 Revision- RPSA Template

Exhibit C

CF/CT AND NEW LARGE SINGLE LOADS

1. CF/CT AND NEW LARGE SINGLE LOADS(07/25/08 Version)

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

1.1 CF/CT Loads

«Customer Name» has no loads identified 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.

End Option 1

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

Drafter's Note: If customer has more than one CF/CT, number each separately as (1), (2), etc. and indent appropriately.

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

End-use consumer's name:

Facility name:

Facility location:

Date of CF/CT determination:

Facility description:

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

End Option 2

*Option 1: Include the following if customer **has no** POTENTIAL NLSLs.*

1.2 Potential NLSLs

«Customer Name» has no identified potential NLSLs.

End Option 1

*Option 2: Include the following if customer **has** POTENTIAL NLSL(s).*

Drafter's Note: If customer has more than one potential NLSL, number each separately as (1), (2), etc. and indent appropriately.

1.2 Potential NLSLs

«Customer Name» has the following potential NLSL(s):

End-use consumer name:

Facility location:

Potential load size:

Date load anticipated:

Description of potential NLSL:

End Option 2

07/31/08 Revision- RPSA Template

1.3 Existing NLSLs

*Option 1: Include the following if customer **has no** existing NLSLs AND DELETE sections 1.3.1.*

«Customer Name» has no existing NLSLs.

End Option 1

*Option 2: Include the following if customer **has** an existing NLSL and will serve the NLSL with a **non-federal firm resource**.*

1.3.1 «Name of NLSL» NLSL

«Customer Name» has an NLSL.

End-use consumer name:

Facility location:

Date load determined as an NLSL:

Approximate load:

Description of NLSL:

Manner of service:

End Option 2

~~1. CF/CT AND NEW LARGE SINGLE LOADS (05/28/08 Version)~~

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

~~1.1 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.~~

~~*End Option 1*~~

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

~~1.1 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 Northwest Power Act, and are subject to the applicable cost based rate for the rest of «Customer Name»'s load:~~

~~End-use consumer's name:~~

~~Facility Name:~~

~~Facility Location:~~

~~Facility Description:~~

~~Amount of firm energy (megawatts at 100 percent load factor) contracted for, or committed to:~~

~~*End Option 2*~~

~~*Option 1: Include the following if customer **has no** POTENTIAL NLSLs.*~~

~~1.2 Potential NLSLs~~

~~«Customer Name» has no potential NLSLs.~~

~~*End Option 1*~~

07/31/08 Revision- RPSA Template

~~Option 2: Include the following if customer **has** POTENTIAL NLSLs:~~

~~1.2 — Potential NLSLs~~

~~«Customer Name» has identified the following potential NLSL(s):~~

~~End use consumer name:~~

~~Facility location:~~

~~Potential load size and date anticipated:~~

~~Description of potential NLSL:~~

~~End Option 2~~

~~1.3 — Existing NLSLs~~

~~Option 1: Include the following if customer **has no** existing NLSLs~~

~~1.3.1 — NLSLs~~

(PS«X/LOC»- «File Name with Path».DOC) «mm/dd/yy» *{Drafter's Note: Insert date of finalized contract here}*

07/31/08 Revision- RPSA Template

Exhibit D AVERAGE SYSTEM COST METHODOLOGY

(PS«X/LOC»- «File Name with Path».DOC) «mm/dd/yy» *Drafter's Note: Insert date of finalized contract here*

07/31/08 Revision- RPSA Template

EXHIBIT E SCHEDULING

1. SCHEDULING FEDERAL RESOURCES

«Customer Name» is responsible for creating E-Tags for all deliveries of federal power purchased under this Agreement.

2. AFTER THE FACT

BPA and «Customer Name» agree to reconcile all transactions, schedules and accounts at the end of each month (as early as possible within the first 10 calendar days of the next month). BPA and «Customer Name» will verify all transactions per this Agreement, as to product or type of service, hourly amounts, daily and monthly totals, and related charges.

3. REVISIONS(07/17/08 Version)

BPA may unilaterally revise this exhibit:

(1) to implement changes that BPA determines are necessary to allow it to meet its power and scheduling obligations under this Agreement, or

(2) to comply with requirements of the WECC, NAESB, or NERC, or their successors or assigns.

BPA shall provide a draft of any material revisions of this exhibit to «Customer Name», with a reasonable time for comment, prior to BPA providing written notice of the revision. Revisions are effective 45 days after BPA provides written notice of the revisions to «Customer Name» unless, in BPA's sole judgment, less notice is necessary to comply with an emergency change to the requirements of WECC, NAESB, NERC, or their successors or assigns. In this case, BPA shall specify the effective date of such revisions.

~~REVISIONS~~

~~BPA may unilaterally revise this exhibit: (1) to implement changes that are applicable to all customers who are subject to this exhibit and that BPA determines are reasonably necessary to meet its power and scheduling obligations under this Agreement or (2) to comply with requirements of the WECC, NAESB, or NERC, or their successors or assigns.~~

~~BPA shall provide a draft of any material revisions of this exhibit to «Customer Name», with a reasonable time for comment, prior to BPA providing written notice of the revision. Revisions are effective 45 days after BPA provides written notice of the revisions to «Customer Name» unless, 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.~~