Attachment 3: Certificate Holder's responses to DPO comments

From: Rosalie Annand
Sent: Monday, January 6, 2025 3:35 PM
To: MCVEIGH-WALKER Chase * ODOE; ESTERSON Sarah * ODOE; CORNETT Todd * ODOE
Cc: Kyle Robrock; Andrews, Carrie; Paul Szewczykowski; Clint Light
Subject: Madras Solar Energy Facility RFA1 - Response to CTWS Comment on the DPO
Attachments: 2025.01.06 Madras PV 1 Response to CTWS 2024.12.05 Comment.pdf

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Hello Chase and Sarah,

Attached is Madras PV1, LLC (Certificate Holder) response to the comment received from Warm Springs Power & Water Enterprises on December 5th, 2024 on the Draft Proposed Order. Attached to the letter is an additional table formatted response and accompanying exhibits. Please let us know if you have any issues accessing the attached document. Please let us know via email that you have received the response. And always, please let us know if you have any questions.

Thank you,
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Rosalie Annand
Permitting Specialist II | Ecoplexus, Inc.
United States, Central Time Zone
530-545-3149

Ecoplexus, Inc. | LinkedIn

Madras PV1, LLC

990 Hwy 287 #106319
Mansfield, TX 76063

T 415-626-1802
F 415-449-3466

ecoplexus

January 6, 2025

Chase McVeigh-Walker
Senior Siting Analyst
Oregon Department of Energy
550 Capital St. NE, 1st Floor
Salem, OR 97301

Re: Response to WSPWE Comments on Request for Amendment 1 to Site Certificate for Madras Solar Energy Facility Site Certificate

Dear Mr. McVeigh-Walker:

Madras PV1, LLC ("Madras Solar") respectfully submits this response to the comments of the Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribes") dated December 5, 2024 ("Tribes' Comment Letter").

I. Introductory Summary Regarding Scope of Requested Amendment

At the outset, the Tribes' Comment Letter solely addresses matters beyond the scope of the requested amendment, which is limited to an extension of time to commence and complete construction of Madras Solar's proposed solar facility. These belated substantive comments on the original application for Site Certificate are highly prejudicial to Madras Solar, as well other stakeholders supporting its project. The Tribes were properly notified of the Site Certificate application years ago and even commented on the application during the time to do so before the Council's issuance of the Site Certificate. But the Tribes did not oppose issuance of the Site Certificate prior to its issuance. Instead, the Tribes commented as follows: "This office considers the consultation between the Project proponent and the CTWSRO to have been conducted in a meaningful way, as part of a reasonable and good faith effort to identify, evaluate, and protect historic properties and cultural resources. We appreciate the inclusion of a tribal member on the field crew for the archaeological inventory efforts."[1]

Further, the Tribes' extended discussion of Madras Solar's right to interconnect to the Pelton-Round Butte Hydropower Project's 230 kV tie line involves a matter beyond the Council's purview that Madras Solar has properly brought before the Federal Energy Regulatory Commission ("FERC")—the federal agency with authority to address the question of whether the Tribes may unilaterally withhold interconnection access to the generator tie line of a federally licensed hydropower project. As Madras Solar's Petition

[1] Final Site Certificate Order, Attachment B, Comments of Christina Nauer on behalf of Confederated Tribes of the Warm Springs Reservation of Oregon, dated January 29, 2020.

for Declaratory Order, or in the Alternative, Application for Interconnection and/or Transmission Service at FERC (the "FERC Petition") explains in detail, FERC's precedent on this point strongly suggests that FERC will find that the Tribes may not unilaterally withhold consent to interconnect in this case.[2] But that is a matter to be decided at FERC, not the Council, and indeed the very reason for the requested extension of time here is to allow for such resolution to occur at FERC before construction must commence under the Site Certificate.

Nevertheless, to ensure the record is complete for the Council's decision on Madras Solar's request for amendment of the construction dates, Madras Solar responds below and in the attached table to all substantive points raised with respect to the Site Certificate by the Tribes' Comment Letter.

II. Background Regarding Interconnection and Unexpected Necessity of FERC Petition

The Tribes' Comment Letter raises issues related to Madras Solar's interconnection agreement with Portland General Electric Company ("PGE") and Madras Solar's good faith attempts to move its solar project forward by asking FERC to take action to amend the jointly held PGE-Tribes hydropower license for the Pelton-Round Butte Hydropower Project. These issues are properly before FERC and beyond the scope of the Council's Site Certificate. However, to ensure the Council has the full background to understand the context of the need for the extension of construction dates under the Site Certificate, Madras Solar provides a detailed recitation of the facts leading up to the proceeding currently before FERC. Madras Solar has also attached a copy of the public version of its FERC Petition for the Council's reference and certain key exhibits.

The referenced dispute at FERC revolves around Madras Solar's contractual right to physically interconnect its proposed solar facility to the transmission system—just as described in the Council's Site Certificate. Madras Solar's proposed facility is a qualifying facility ("QF") under Public Utility Regulatory Policies Act of 1978 ("PURPA"), which entitles it to interconnect its facility to PGE's system and sell its electrical output to PGE.[3] As the Council is aware, Madras Solar has planned to obtain interconnection to sell its proposed facility's electric output to PGE through one of the generator tie lines of the Pelton-Round Butte Hydropower Project, specifically the Pelton-Round Butte 230 kV line. The Pelton-Round Butte Hydropower Project and the Pelton-Round Butte 230 kV line are jointly owned and jointly licensed by PGE and the Tribes under FERC's regulation of hydroelectric projects under Part I of the Federal Power Act.[4]

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[2] *See City of Tacoma v. S. Columbia Basin Irrigation Dist.*, 118 FERC ¶ 61,202, PP 33-36 (March 15, 2007) (explaining, in a similar case, that "FPA Section 6 does not provide the [licensees] with a unilateral veto over the interconnection, as they contend.").

[3] 16 U.S.C. § 824a-3 *et seq*; 18 C.F.R. § 292.303.

[4] *See generally Portland Gen. Elec. Co.*, 111 FERC ¶ 61,450 (June 21, 2005) (Relicensing Order).

Based on publicly filed documents and the Tribes' Comment Letter to this Council,[5] PGE and the Tribes' ownership and operation of the hydroelectric project and its generator tie line at issue is governed by their "Ownership and Operation Agreement" (the "O&O Agreement"), effective since January 1, 2002.[6] The O&O Agreement appoints PGE as the "operator" and "agent" for the Tribes with respect to the project,[7] and it also provides PGE with a right of access to, and control over, the entire project on behalf of both owners.[8] The current ownership allocation appears to be that the Tribes own 49.9 percent of the project assets, and PGE owns 50.1 percent.[9]

Madras Solar has been under development for over five years. The proposed solar facility is located on private land east of the Pelton-Round Butte Hydropower Project's licensed boundary. The Pelton-Round Butte 230 kV line itself runs along the opposite side of the river of the Tribes' reservation for 7.9 miles from the Pelton powerhouse to the Round Butte Substation.[10] Thus, the proposed solar facility and the hydropower project's generator tie line to which it would interconnect are not located on the Tribes' reservation.[11] Madras Solar identified the potential point of interconnection to the Pelton-Round-Butte 230 kV line at a point approximately 4.9 miles north of PGE's Round Butte Substation, for the purpose of selling the solar facility's electric output to PGE at that point.

PGE is a regulated public utility under the Federal Power Act, which means that it must offer open access to its transmission system and agree to physically interconnect the facilities of proposed generation facilities (such as Madras Solar's) to PGE's transmission system.[12] Under FERC precedent, when a transmission line (including a generator tie line such as the Pelton-Round Butte 230 kV line at issue) is jointly owned by a public utility and another owner that is not a public utility, the public utility must offer open access to its transmission system, including interconnection to the system for new

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5 Tribes' Comment Letter at 2.

6 A copy of the O&O Agreement is attached as Exhibit 2. The copy of the O&O Agreement attached hereto is a copy of the document filed by PGE in Oregon Public Utility Commission Docket No. UM 1704.

7 Exhibit 2, O&O Agreement at Art. 3.1.

8 *See* Exhibit 2, O&O Agreement at Art. 2.4(d).

9 *See* PGE's 2023 Clean Energy Plan and Integrated Resource Plan, Appendix E, p. 489, available at https://assets.ctfassets.net/416ywc1laqmd/3K90DGpYCyqQu9RoLagThu/e85d8569e4a1e9f111ad5499504e5aea/2023_CEP-IRP_Appendix_E.pdf (stating PGE owns 50.1 percent); *see also Portland Gen. Elec. Co.*, 93 FERC ¶ 61,184, at 61,606 (Nov. 21, 2000) (describing Tribes' right to exercise options to increase ownership share).

10 *Portland Gen. Elec. Co.*, 111 FERC ¶ 61,450, PP 13, 107 & n. 45, 157 (June 21, 2005) (Relicensing Order).

11 *See also* Final Site Certificate Order at 11 ("The facility site is located east of Lake Simtustus, south and west of Willow Creek, and approximately 0.5 miles from the eastern boundary of the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO).").

12 *See* Exhibit 1, Madras Solar's FERC Petition, at 16.

generation facilities.[13] This is the case even if the non-public utility objects to use of the system or previously contracted to bar access by non-owners, like Madras Solar.[14] Moreover, under the PGE-Tribes O&O Agreement, PGE acts as operator of the line. Thus, in the case of the jointly owned PGE-Tribes Pelton-Round Butte 230 kV line, Madras Solar appropriately submitted an interconnection request to the public utility designated as operator of the line—PGE—to be processed under PGE's regulated interconnection process. In that process, Madras Solar funded multiple interconnection studies performed by PGE. PGE's studies identified all interconnection and network upgrades needed to safely interconnect the solar facility. The PGE-produced studies proposed to split the Pelton-Round Butte 230 kV line and loop it through a new point of interconnection substation to be located approximately 4.9 miles north of the Round Butte Substation.[15]

Madras Solar and PGE executed a PURPA power purchase agreement and an interconnection agreement that requires the upgrades PGE proposed in the interconnection studies as discussed above. The interconnection agreement (referred to as the "Large Generator Interconnection Agreement" or the "QF-LGIA") was executed on April 8, 2021—before issuance of this Council's Site Certificate on June 25, 2021.[16] The QF-LGIA describes the proposed interconnection consistent with the description in the Site Certificate and allocates responsibilities between Madras Solar and PGE to complete the construction of the interconnection facilities and necessary network upgrades to the transmission system.[17] Again, the interconnection design in the QF-LGIA (reflected in the Site Certificate) was specifically developed by PGE acting in its capacity as the regulated public utility operating the affected transmission system and also acting in its capacity as the operator of the hydroelectric project under the PGE-Tribes O&O Agreement. In the QF-LGIA, PGE warranted that it had the authority to execute and perform under the QF-LGIA. The QF-LGIA Recitals defined PGE as the "Transmission Provider and/or Transmission Owner," and PGE executed the QF-LGIA in that capacity.[18] PGE also warranted that it had the authority to execute the QF-LGIA and perform its tasks thereunder, without mention of a unilateral veto right or the need for the Tribes to execute the QF-LGIA.[19]

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13 *See* Exhibit 1, Madras Solar's FERC Petition, at 16-21.

14 *See* Exhibit 1, Madras Solar's FERC Petition, at 16-21. The Tribes' Comment Letter appears to suggest that the Pelton-Round Butte 230 kV line is not a part of the transmission system to which the open access provisions of the Federal Power Act apply. Tribes' Comment Letter at 4-5. But Tribes' assertion on that point is both within the jurisdiction of FERC to resolve and incorrect for the reasons set forth in the FERC Petition.

15 *See* Exhibit 1, Madras Solar's FERC Petition, at 9.

16 The QF-LGIA is attached as Exhibit 3. The parties have also amended the QF-LGIA once, and the QF-LGIA First Amendment is attached as Exhibit 4.

17 *See* Exhibit 3, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Appendix A (describing interconnection); Final Site Certificate Order at 7-8 (describing interconnection).

18 Exhibit 3, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at p. 1.

19 *See* Exhibit 3, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 28.1.2 ("Authority," providing: "Such Party has the right, power and authority to enter into this QF-LGIA, to become a Party hereto and to perform its obligations hereunder."); *id.* at Art. 28.1.3

All Madras Solar-owned interconnection facilities and certain PGE-owned facilities (including the point of interconnection substation) will be located on private land to which Madras Solar has acquired property interests.[20] However, based on PGE's studies, certain interconnection and network upgrade facilities are located within the licensed boundary of the Pelton-Round Butte Hydropower Project.[21] As relevant here, the lands within the existing right-of-way through which the Pelton-Round Butte 230 kV line runs, adjacent to the newly proposed point of interconnection substation, are within the license boundary and thus co-owned by the Tribes.[22]

PGE has taken the position that, prior to beginning interconnection construction, the Pelton-Round Butte Hydropower Project license must be amended to accommodate the non-project use of Madras Solar's interconnection.[23] The QF-LGIA requires Madras Solar to "reasonably cooperate" with PGE with respect to the non-project use amendment, including by: "(1) completing required environmental and cultural resources studies and reports in support of the filing; and (2) providing any information reasonably requested by Transmission Provider in connection with such filing, including, but not limited to, information necessary to address stakeholder and agency comments during the drafting and review process."[24]

After experiencing delays in coordinating with the Tribes and PGE, Madras Solar has now completed the QF-LGIA's identified environmental and cultural resources study—utilizing the Tribes' preferred consultant for cultural studies—and sent the final draft of that study to PGE for inclusion in the application for license amendment.[25] The study concludes that the proposed solar facility's interconnection project will not present significant environmental, cultural, or recreational impacts, and therefore allowing its construction within the Pelton-Round Butte Hydropower Project's license boundary does not present a conflict with the hydropower licensing requirements.[26] Madras Solar has

("No Conflict", providing: "The execution, delivery and performance of this QF-LGIA does not violate or conflict with . . . any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets."); *id.* at Art. 28.1.4 ("Consent and Approval," providing: "Such Party has sought or obtained, or, in accordance with this QF-LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this QF-LGIA, and it will provide to any Governmental Authority notice of any actions under this QF-LGIA that are required by Applicable Laws and Regulations.").

20 *See* Exhibit 1, Madras Solar's FERC Petition, at 11.

21 *Id.*

22 *Id*.

23 *See* Exhibit 3, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 3.1 ("Because the Point of Interconnection is within the boundary of a FERC-regulated hydroelectric project (the Pelton-Round Butte Hydropower Project, FERC No. 2030, which is co-owned by Transmission Provider and the Confederated Tribes of Warm Springs), Transmission Provider will be required to file a request at FERC for approval of a non-project use of project land.").

24 Exhibit 3, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 3.1.

25 *See* Exhibit 1, Madras Solar's FERC Petition, at 11-12.

26 *See* Exhibit 1, Madras Solar's FERC Petition, at 12.



also obtained all non-ministerial state, local, and federal permits—leaving amendment to the PGE-Tribes hydropower license as the remaining obstacle to commencement of construction.[27]

The amendment of the hydropower license to enable the use of licensed project lands or facilities consistent with an agreement one of the licensees has already executed (the QF-LGIA) should be relatively straightforward and uncontroversial. However, PGE and the Tribes have delayed, and eventually refused, Madras Solar's requests that they initiate amendment of their hydropower license. As amended, the QF-LGIA includes a milestone date of no later than December 30, 2023, by which Madras Solar and PGE agreed they intended for PGE to file the license amendment application with FERC to achieve a revised operation date in the QF-LGIA of December 31, 2025.[28] For its part, Madras Solar has engaged in extended and good faith efforts to secure the Tribes' amicable consent to amendment of the license. Over a period of approximately two years, Madras Solar has had numerous meetings with the Tribes' representatives, including Warm Springs Power and Water Enterprises, which the Tribes have explained is a wholly owned enterprise of the Tribes and was formed, in part, to manage the Tribe's interests as owner in the hydropower project.[29] Yet, Madras Solar has been unable to secure the Tribes' consent to amendment of the hydropower license.

Eventually, even though Madras Solar maintains the QF-LGIA negates the need for a separate interconnection or transmission services agreement with the Tribes, Madras Solar even sent the Tribes a formal request for interconnection and transmission services because, as a "electric utility" and a "transmitting utility" under the Sections 210 and 211 of the Federal Power Act, the Tribes are subject to such interconnection requests, even though not a fully regulated "public utility" like PGE.[30] The request asked the Tribes to explain what terms of interconnection they would require if different from the already-executed QF-LGIA with PGE.[31] But the Tribes declined to offer any terms, denied the applicable provisions of the Federal Power Act apply to them, and asserted Madras Solar possesses no right to interconnect under the QF-LGIA executed with PGE.[32]

Meanwhile, PGE again refused to move forward with the application to amend the hydropower license without the Tribes' consent—thus requiring Madras Solar to petition FERC to take action to effectuate Madras Solar's right to interconnect as described in the QF-LGIA and to amend PGE-Tribes hydropower license so construction may commence. As the FERC Petition explains at length, the interconnection policies

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27 *See* Exhibit 1, Madras Solar's FERC Petition, at 12.

28 Exhibit 4, Madras Solar-PGE QF-LGIA First Amendment, dated July 11, 2023, at Appendix B. The December 30, 2023 QF-LGIA milestone specifies two conditions: (1) Madras Solar's completion of environmental and cultural studies and necessary permits, and (2) "support for the FERC application in writing from the Joint Licensee of the Pelton-Round Butte Project, the Confederated Tribes of Warm Springs." *Id.*

29 *See* Exhibit 1, Madras Solar's FERC Petition, at 13.

30 *See* Exhibit 1, Madras Solar's FERC Petition, at 13-14 & 24-35.

31 *See* Exhibit 1, Madras Solar's FERC Petition, at 14.

32 *See* Exhibit 1, Madras Solar's FERC Petition, at 14.

contained in PURPA and/or the Federal Power Act entitle Madras Solar to interconnect its facility the Pelton-Round Butte 230 kV line, and the hydropower licensees (PGE and the Tribes) may not unilaterally deny such right to interconnection.[33] Although Madras Solar requested that FERC take expedited action, the need to proceed at FERC is likely to extend the delays already experienced by at least several months.

Thus, Madras Solar asks this Council to amend the Site Certificate to include more realistically feasible dates for commencement and completion of construction, which cannot lawfully occur before FERC amends the PGE-Tribes' hydropower license to authorize the non-project use of Madras Solar's interconnection as set forth in the QF-LGIA.

III. Responsive Argument

1. Madras Solar Meets the Council's Standard for an Amendment to the Site Certificate's Construction Dates.

The Council's administrative rule, OAR 345-027-0375(2)(b), provides that the Council should amend a site certificate if "the facility complies with all laws and Council standards applicable to an original site certificate application." Madras Solar meets this standard. Nothing has changed from a legal perspective. Madras Solar is still in compliance with all applicable laws. There is one outstanding impediment to the commencement of construction—the need for amendment of PGE and the Tribes' joint hydropower license to enable the non-project use of the hydropower project's generator tie line and associated land located within the boundary of the licensed hydropower facility. Such amendment would be amendment to a license held by other parties (PGE and the Tribes), not Madras Solar.[34] Because PGE and the Tribes have refused to ask FERC to amend their hydropower license, Madras Solar has asked FERC to do so through its FERC Petition. That is a matter regarding access to interstate transmission facilities and hydropower licensing that FERC has jurisdiction to resolve, and Madras Solar's FERC Petition speaks for itself in establishing the legal basis for why Madras Solar expects FERC will take action to allow the proposed solar facility's interconnection to go forward as proposed in the Site Certificate. In any event, for purposes of OAR 345-027-0375(2)(b), Madras Solar has diligently acted to ensure compliance with all applicable laws and is not in violation of any applicable laws. Indeed, Madras Solar seeks extension here to ensure construction is not required to begin under the Site Certificate before the FERC amends the PGE-Tribes hydropower license.

The Tribes' Comment Letter seeks to reopen the Council's finding in issuing the Site Certificate that the solar project's use of 12 acres of high value farmland is justified by the site's proximity to the Pelton-Round Butte 230 kV transmission line to which it

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33 *See* Exhibit 1, Madras Solar's FERC Petition, at 15-41.

34 *See, e.g., Portland Gen Elec*., 152 FERC ¶ 62,131 (Aug. 28, 2015) (approving non-project use amendment to PGE and Tribes' Pelton-Round Butte Hydropower Project's license to modify an existing 24-slip boat dock for the Lake Simtustus RV Park and Fish Camp).

would interconnect.[35] Despite the Tribes' assertions, Madras Solar is not in violation of any laws by proposing to interconnect to the generator tie line of the hydropower project. Indeed, the Tribes' co-licensee and co-owner of that transmission line executed the QF-LGIA for the very reason that Madras Solar is entitled to interconnect at that location under federal energy law and policy, which obviates the need for a more intrusive and duplicative generator tie line from the solar facility to another location on the transmission grid. Because the Tribes have continued to withhold consent, Madras Solar has asked FERC to resolve the dispute and take action to amend the hydropower license. None of that means that Madras Solar has failed to comply with applicable laws as contemplated under OAR 345-027-0375(2)(b).

Additionally, while Madras Solar is in compliance with all applicable laws and thus meets the standard under OAR 345-027-0375(2)(b), in this case the requested extension is further warranted by the fact that the requested amendment only extends the deadlines to commence and complete construction due to unexpected delays in obtaining PGE and the Tribes' consent to amend their hydropower license.[36] As noted above, at the time of issuance of the Site Certificate on June 25, 2021, Madras Solar had already obtained an executed power purchase agreement to sell the power from Madras Solar to PGE and a separate interconnection agreement (the QF-LGIA) with PGE, which is the majority owner and the operator of Pelton-Round Butte Hydropower Project's generator tie line. The interconnection agreement obligates PGE to interconnect to the Pelton-Round Butte Hydropower Project's generator tie line just as described in the Site Certificate. Madras Solar reasonably anticipated that PGE—which is the majority owner and operator of the hydropower project and the Pelton-Round Butte transmission tie line at issue—would work with the Tribes to amend their hydropower license to enable the interconnection. Indeed, the QF-LGIA executed prior to issuance of the Site Certificate states PGE will do so.[37]

However, despite reasonable expectations at the time of issuance of the Site Certificate, PGE and the Tribes have not cooperated to timely move the interconnection forward and have instead refused to request that FERC amend their hydropower license to enable the interconnection called for in the QF-LGIA PGE signed. Due to the unforeseen impediment and delay in achieving amendment to the hydropower license, Madras Solar has been unable to commence construction. Indeed, the Tribes' current objection was unexpected because the Tribes did not object to the original Site Certificate and have only more recently withheld their affirmative consent to amendment of the hydropower license. Thus, it was reasonable to assume the Tribes' cooperation in amendment of the hydropower license would be forthcoming, or that PGE would

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35 Tribes' Comment Letter at 5.

36 Madras Solar's Request for Amendment No. 1 at 4-5.

37 Exhibit 3, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 3.1 ("Because the Point of Interconnection is within the boundary of a FERC-regulated hydroelectric project (the Pelton-Round Butte Project, FERC No. 2030, which is co-owned by Transmission Provider and the Confederated Tribes of Warm Springs), Transmission Provider will be required to file a request at FERC for approval of a non-project use of project land.")



otherwise honor its obligations under the QF-LGIA to seek amendment of the hydropower license at FERC. The requested extension provides time to proceed before FERC to resolve this unexpected issue.

2. **The Site Certificate Is Not Preempted By the Federal Power Act.**

The Tribes "question" whether the Council's Site Certificate is preempted by the federal regulation of the PGE-Tribes' hydropower license for the Pelton-Round Butte Hydropower Project,[38] but there is no preemption issue here.

The Supreme Court has held that state regulation related to a federally licensed hydropower projects is preempted only "to the extent it actually conflicts with federal law, that is, when it is impossible to comply with both state and federal law, or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress."[39] This can occur in the case where a state law imposes a more restrictive condition on the federal hydropower licensee's use of the waterway than FERC imposes in its hydropower license, or the state requires a licensee to obtain a duplicative state permit addressing matters already addressed in the hydropower license. For example, in the case cited by the Tribes, *Sayles Hydro Ass'n v. Maughan,* 985 F.2d 451 (9th Cir. 1993), the court held that a FERC-licensed hydropower project could not be required to obtain a state water permit.[40] However, in *California v. FERC,* "the Supreme Court specifically held that preemption under the FPA applies only when a state measure 'actually conflicts with federal law' or 'the state law stands as an obstacle to the congressional objectives[,]'" and it "also made clear that the FPA leaves intact countless state powers[.]"[41] The Supreme Court also explained there is a "presumption against finding pre-emption of state law in areas traditionally regulated by the States."[42]

Consequently, local and state permits must often be obtained for activities related to hydropower projects, and such state and local permits are not preempted so long as they do not conflict with FERC's licensing requirements. Indeed, in approving of non-project uses within the boundaries of licensed hydropower projects, FERC expressly *requires* compliance with "all necessary local, state, and federal permits" for the activity.[43] To further illustrate the point, recent FERC orders have expressly required compliance with state and local permits for numerous non-project uses approved within licensed hydropower boundaries, including a non-project marina,[44] a non-project

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38 Tribes' Comment Letter at 6.

39 *California v. FERC*, 495 U.S. 490, 506, 110 S. Ct. 2024, 2033 (1990) (cleaned up).

40 *Id.* at 456; *see also California*, 495 U.S. at 506 (California's minimum in-stream flow requirement preempted because it was more restrictive of licensee's use of waterway than FERC's corresponding requirements).

41 *Niagara Mohawk Power Corp. v. Hudson River-Black River Regulating Dist*., 673 F.3d 84, 99 (2d Cir. 2012) (quoting *California*, 495 U.S. at 506).

42 *California*, 495 U.S. at 497 (cleaned up).

43 *Ga. Power Co*., 173 FERC ¶ 61,021, P 15 (Oct. 6, 2020).

44 *Id.* (requiring compliance with "all necessary local, state, and federal permits").

campground,[45] a non-project municipal water withdrawal facility,[46] a non-project gas well and related right-of-way,[47] a non-project fire station and public recreation facilities,[48] a non-project railroad crossing the hydropower project's licensed diversion canal,[49] and a highway department's non-project bridge.[50]

Here, there is no conflict preemption for the simple reason that the Council's Site Certificate requires nothing of the federal hydropower licensees. The Council is not requiring the Tribes or PGE to obtain any permits from the Council to operate their hydropower project, much less duplicative permits to their hydropower license. The Site Certificate creates obligations *on Madras Solar* regarding its construction and operation of its proposed solar facility. Thus, *Sayles* is wholly inapplicable. As the cases cited above demonstrate, FERC will normally *require* that state permits like the Site Certificate be obtained as a condition of a non-project use amendment to a hydropower license. The two permitting requirements exist in tandem and are not in conflict.

Further, the existing Site Certificate already includes language within its conditions that incorporates as a condition that Madras Solar comply with any directives on interconnection to the hydropower project's transmission tie line that FERC may require. Specifically, the Site Certificate includes General Standard of Review Condition 3.d., as follows: "The certificate holder shall design, construct, operate and retire the facility substantially as described in the site certificate . . . d. *In compliance with all applicable lawful rules and requirements of federal agencies*."[51] Relatedly, General Standard Condition 9 provides: "The certificate holder is authorized to construct a 230 kV transmission line anywhere within the approved corridor, *subject to the conditions of the site certificate*"[52]—which under Condition 3.d. includes FERC's conditions (if any) on placement of interconnection facilities. The Site Certificate is not preempted, therefore, because it expressly requires compliance with applicable federal law.

The Tribes' Comment Letter suggests that preemption could occur to the extent that the Site Certificate authorizes Madras Solar to begin construction without first obtaining any necessary federal authorizations, such as amendment to the PGE-Tribes

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45 *Ala. Power Co*., 177 FERC ¶ 62,036, P 13 (Oct. 20, 2021) (requiring compliance with "all necessary local, state, and federal permits").

46 *Empire Dist. Elec. Co*., 171 FERC ¶ 62,020, P 14 (April 7, 2020) (requiring compliance with "all necessary local, state, and federal permits").

47 *Sabine River Auth*., 133 FERC ¶ 62,059, P 16 (Oct. 19, 2010) (requiring compliance with "all necessary local, state, and federal permits").

48 *S.C. Pub. Serv. Auth*. , 158 FERC ¶ 62,086, P 15 (Feb. 9, 2017) (requiring compliance with "all necessary local, state, and federal permits").

49 *S.C. Pub. Serv. Auth*., 172 FERC ¶ 62,163, at 64,319 (Sept. 23, 2020) (requiring compliance with "all necessary local, state, and federal permits").

50 *Brookfield White Pine Hydro, LLC*, 178 FERC ¶ 62,095, at 64,264 (Feb. 16, 2022) (requiring compliance with "all necessary local, state, and federal permits").

51 (Emphasis added.)

52 (Emphasis added.)

hydropower license.[53] But this argument attacks a straw man and fails. Madras Solar has never sought—not with its original application or with its instant request for an extension of time—an order from this Council purporting to override federal requirements. As noted above, the Site Certificate expressly requires Madras Solar's compliance with federal requirements and does not state any intent to displace or contradict any requirements FERC may impose. Indeed, the very reason Madras Solar seeks an extension of time to commence construction is to enable FERC's authorization of the non-project use under the hydropower license in accordance with federal regulation prior to commencement of construction.[54] Seeking an extension of time to ensure compliance with federal law does not create a preemption problem.

The Tribes are also mistaken in suggesting that the fence enclosing the point of interconnection substation, as described in the Site Certificate, will exclude PGE and the Tribes from the licensed boundaries of their hydropower facilities.[55] The access gates were included in the original site plans—to which the Tribes did not object before issuance of the Site Certificate—and this is a prime example of an issue that could have been discussed and resolved years ago. It is not entirely clear which area the Tribes are discussing, and discussion of this subject can be confused by the fact that there the two separate 230 kV lines at issue—(1) Madras Solar's own 230 kV tie line that delivers power from the solar facility to the point of interconnection substation; and (2) the 230 kV Pelton-Round Butte line that will be split and routed through the point of interconnection substation. Under current plans, there will be a fence surrounding the point of interconnection substation into which the Madras Solar's 230 kV generator tie line will enter and through which the Pelton-Round Butte 230 kV line will be routed under PGE's design for the interconnection described above. A fence surrounding a high voltage substation is a standard feature for safety and security, and it is required as a part of the interconnection design by the Tribes' co-licensee, PGE, which acts as operator of the hydropower project and the transmission provider operating the affected transmission facilities. Specifically, the Madras Solar-PGE QF-LGIA describes the requirements that PGE designed for the point of interconnection substation through which the Pelton-Round Butte 230 kV line will be routed as including "a fenced area of 233' x 348' with a surface area of 2.2 acres."[56] The point of interconnection substation enclosed by the fence will be a network upgrade under the QF-LGIA, which is a facility that will be owned and controlled by PGE (and presumably also the Tribes). As the owner of that facility, Madras Solar would expect that PGE (and presumably the Tribes, if they wish pursuant to their O&O Agreement with PGE) would control access to this fenced area. Even if these agreements could be read to suggest that Madras Solar controls access to the fenced area around the point of interconnection substation to the exclusion of the

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53 *See* Tribes' Comment Letter at 7 (asserting "the Council is authorizing a related and supporting facility to enter the FERC project boundary for a non-Pelton Project purpose where FERC has reserved exclusive authority to regulate the Pelton generator line").

54 *See* Madras Solar's Request for Amendment No. 1 at 5 ("FERC's approval to interconnect to the Pelton-Round Butte 230-kV line . . . is needed to commence construction").

55 *See* Tribes' Comment Letter at 6 (asserting "the state certificate would eliminate access to the [hydropower tie] line by construction of a fenced boundary").

56 Exhibit 3, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Appendix A p. 1.

owners of the substation (which is not what the agreements state), Article 5.13 of that QF-LGIA also requires Madras Solar to provide PGE access to any Madras Solar-controlled facilities. Thus, the fenced area within the hydropower license boundary will not eliminate access to, or control of, the FERC-licensed 230 kV line by the hydropower licensees. Further, to the extent Madras Solar is misunderstanding the Tribes' concern in this response, Madras Solar can provide any necessary updated site plans to further clarify that site fencing will not eliminate the PGE-Tribes access to the point of interconnection substation or any area within the hydropower project's license boundaries.

The Tribes' Comment Letter also provides discussion regarding the Tribes' rights to off-reservation fishing, as well payment arrangements between PGE and the Tribes related to power sales and fish protection measures in their hydropower license.[57] However, the Tribes' Comment Letter does not explain how Madras Solar's proposed solar project or interconnection to the hydropower project's tie line will adversely affect those concerns, and Madras Solar is aware of no such adverse impacts. PGE designed the interconnection of the solar facility under procedures mandated by FERC and the Oregon Public Utility Commission to ensure no adverse impacts will result from the interconnection. But whatever adverse impacts the Tribes believe may exist as a result of the interconnection are a matter to be resolved at FERC.

IV. Conclusion

In sum, FERC has jurisdiction under the Federal Power Act to license hydropower facilities and to regulate electrical interconnection to regulated transmission lines (including the Pelton-Round Butte 230 kV line at issue). But the Tribes overlook that this Council has jurisdiction as a matter of state law to issue the Site Certificate for a solar facility located on land adjacent to the hydropower project's licensed boundary. The Site Certificate reasonably, and lawfully, describes how the solar facility is proposed to interconnect to the hydropower project's generator tie line and approves that design subject to any further regulatory requirements that FERC may impose through its procedure to amend the hydropower license. This Council's issuance of the Site Certificate and the requested grant of an extension for commencement of construction while matters within FERC's jurisdiction are addressed do not conflict with, and are not preempted by, federal law.

Sincerely,

John Gorman

John Gorman
Madras PV1, LLC

[57] Tribes' Comment Letter at 1-4.

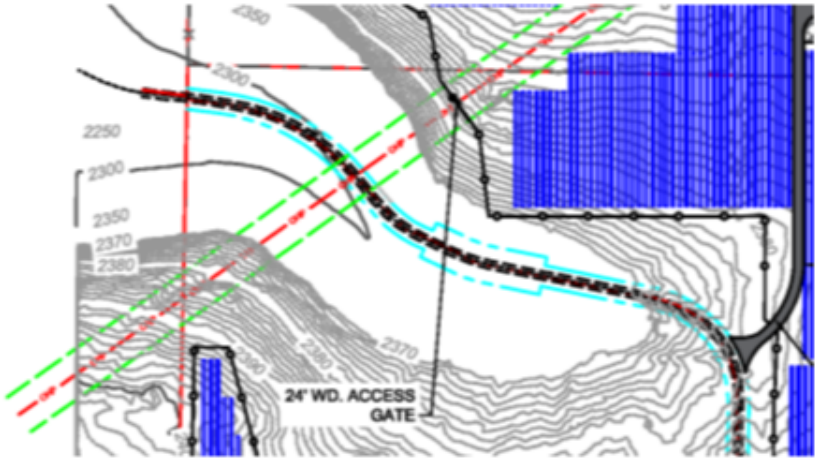
DPO Response to Comments					
Related Site Condition	Comment Summary	ID Number	Comment Page(s)	CTWSO Comment	Certificate Holder Response
AcceGEN-GS-07	*Site Certificate Eliminates Access to FERC-licensed Facility and Transmission Line Easement with Fenced Boundary and Council Authorizing Facility to Enter Project Boundary for Non-Pelton Project Purpose*	1	CTWSO p4 & CTWSO p6	"… the Site Certificate incorporates the Pelton generator line as bisecting the EFSC Facility Site Boundary which means that the State Site Certificate would eliminate access to the FERC licensed facility by construction of a fenced boundary. Site Certificate Condition GEN-GS-07 also purports to authorize the certificate holder to "construct a 230 kV transmission line anywhere within the approved corridor, subject to the site certificate conditions of the site certificate"… which means that the Council is authorizing a related and supporting facility to enter the FERC project boundary for a non-Pelton Project purpose."	The fenced boundary of the solar project will not eliminate access to the FERC licensed 230 kV line. The certificate holder notes that access gates were included in the original site plans. The attached new site plan excerpts show those gate and fencing have been removed, and similar final site plans will be provided prior to construction to further clarify that PV site fencing will not eliminate access to the FERC-licensed 230 kV line. The certificate holder is currently coordinating with FERC to authorize entry into the FERC project boundary to connect to the 230 kV line for non-Pelton Project use.
	Locationally Dependent, Goal 3 Exception	2	CTWSO p5-6	"The Council approved the goal exception, finding that the proposed facility was "locationally dependent." … In particular, Madras asserted that it had "immediate onsite interconnection to Portland General Electric's (PGE) 230 kV Pelton to Round Butte transmission line, which then provides interconnection and delivery from the facility to the regional transmission system without the need to build a new transmission line." … Madras' facility lacks access to any capacity on the Pelton generator line and any interconnection to the Northwest power grid because it has not obtained any approval to interconnect with the Tribe's facility and it has not otherwise obtained approval for a non-Pelton Project use of Pelton Project lands and facilities."	The site is considered high value farmland because it is within the bounds of the North Unit Irrigation District, which designates the site, regardless of underlying soil conditions or National Resource Conservation District soil classification, as high-value farmland. The proposed associated transmission line route would be the most direct route from the proposed substation to the POI, and all alternative routes would also traverse high value farmland. Therefore, the Council agreed that the proposed 230 kV must cross high value farmland to achieve a reasonably direct route in the Final Order. The certificate holder is currently coordinating with FERC to authorize entry into the FERC project boundary to connect to the 230 kV line for non-Pelton Project use.
	FERC Declaratory Order	3	CTWSO p6, paragraph 2	"… Madras asks FERC to exercise discretion to declare that the Tribe does not have the right to consent to interconnection of its facility and, in the alternative, to issue an order under Sections 210, 211 and 212 of the Federal Power Act directing that the Tribe and Madras take all actions needed to make Madras' interconnection effective. Madras further asserts that FERC has reserved discretionary authority in the 2005 FERC license to amend the Pelton Project hydropower license to the extent necessary to allow Madras' interconnection. The Tribe does not concur that FERC has the discretionary authority as advocated by Madras and, to the extent discretion does exist, does not believe that FERC will order use of the Tribe's facilities over its objection."	FERC has authority to address the question of whether the Tribes may unilaterally withhold interconnection access to the generator tie line of a federally licensed hydropower project. As Madras' Petition for Declaratory Order, or in the Alternative, FERC Petition explains in detail, FERC's precedent on this point strongly suggests that FERC will find that the Tribes may not unilaterally withhold consent to interconnect in this case. This is a matter to be decided at FERC, not by the Council, and indeed the very reason for the requested extension of time from the Council here is to allow for such resolution to occur at FERC before construction must commence under the Site Certificate.

Proposed Site Certificate Condition Text Revisions	Current Language	Proposed Revisions
GEN- GS-07	The certificate holder is authorized to construct a 230 kV transmission line anywhere within the approved corridor, subject to the conditions of the site certificate. The approved corridor extends approximately 200 feet in length between the facility substation and the Point of Interconnect, and 0.5-of-a-mile in width. [General Standard Condition 9, Site Specific Condition OAR 345-025-0010(5), Final Order on ASC]	The certificate holder is authorized to construct a 230 kV transmission line ~~anywhere~~ within the approved corridor, upon approval by FERC of the non-project use of lands within the boundary of the Pelton-Round Butte Hydroelectric Project, subject to the conditions of the site certificate. The approved corridor extends approximately 200 feet in length between the facility substation and the Point of Interconnect, and 0.5-of-a-mile in width. [General Standard Condition 9, Site Specific Condition OAR 345-025-0010(5), Final Order on ASC]
PRE-GS-01	Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, "construction rights" means the legal right to engage in construction activities. For the transmission line associated with the energy facility if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and the certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of a transmission line occurs during the certificate holder's negotiations to acquire construction rights on another part of the site. [General Standard Condition 4, Mandatory Condition OAR 345-025-0006(5), Final Order on ASC]	Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site as granted by both EFSC and FERC. For the purpose of this rule, "construction rights" means the legal right to engage in construction activities. For the transmission line associated with the energy facility if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and the certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of a transmission line occurs during the certificate holder's negotiations to acquire construction rights on another part of the site. [General Standard Condition 4, Mandatory Condition OAR 345-025-0006(5), Final Order on ASC] Certificate holder will obtain construction rights from FERC for the 230kv ROW.

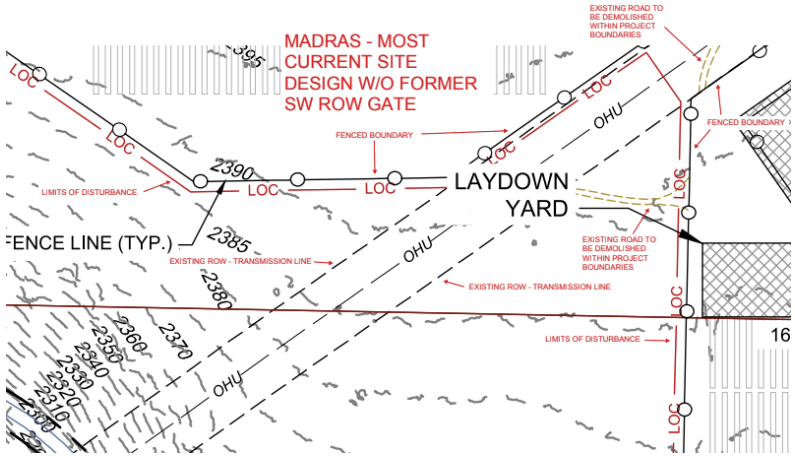
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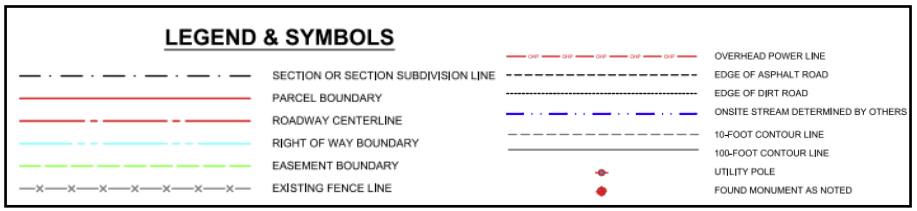
Access to FERC-licensed Facility and Transmission Line Easement

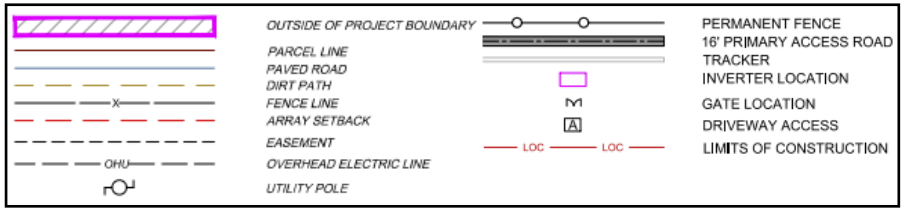
Original site plan excerpt of southwest corridor with fencing and access gate.



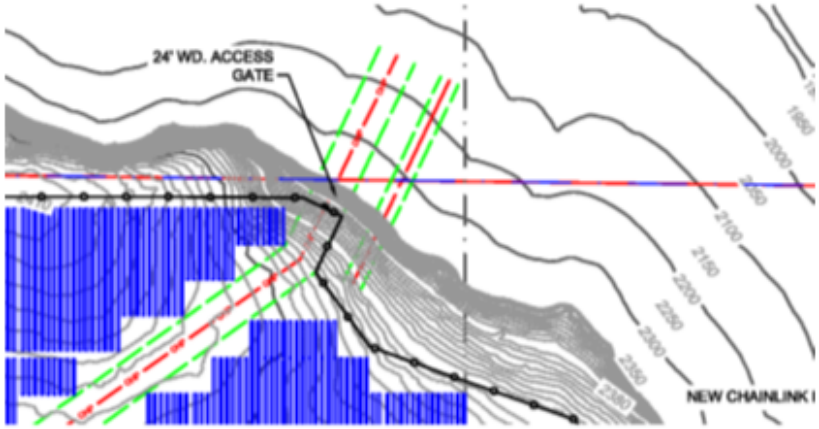
Updated site plan excerpt of southwest corridor without fencing and access gate.







Original site plan of showing northeast corridor with fencing and access gate.



Updated site plan excerpt of northeast corridor without fencing and access gate.

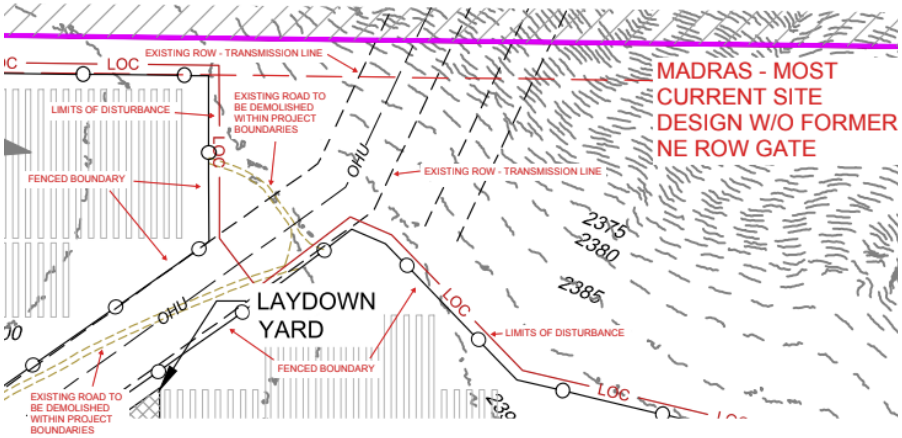


Exhibit List

Exhibit 1: Madras PV 1, LLC's Petition for Petition for Declaratory Order, or in the Alternative, Application for Interconnection and Transmission Services, dated Sept. 4, 2024, FERC Docket Nos. TX24-5 & EL24-150
(Public Version without Exhibits)

Exhibit 2: PGE-Tribes Ownership & Operation Agreement, dated Jan. 1, 2002

Exhibit 3: Madras Solar-PGE QF-LGIA, dated April 8, 2021

Exhibit 4: Madras Solar-PGE QF-LGIA First Amendment, dated July 11, 2023

EXHIBIT 1

Madras PV 1, LLC's Petition for Petition for Declaratory Order, or in the Alternative, Application for Interconnection and Transmission Services, dated Sept. 4, 2024, FERC Docket Nos. TX24-5 & EL24-150 (Public Version without Exhibits)

PUBLIC VERSION

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Madras PV1, LLC	) Docket Nos.	EL24-___
	)	TX24-___
	)	P-2030-___

PETITION FOR DECLARATORY ORDER, OR IN THE ALTERNATIVE, APPLICATION FOR INTERCONNECTION AND TRANSMISSION SERVICES AND REQUEST FOR EXPEDITED ACTION

Pursuant to Federal Energy Regulatory Commission's ("FERC" or the "Commission") Rules of Practice and Procedure 204 and 207[1] and Sections 210, 211, and 212 of the Federal Power Act ("FPA"),[2] Madras PV1, LLC ("Madras Solar") respectfully submits this petition for declaratory order, or in the alternative, application for interconnection and transmission services.

I. Introduction and Summary

At a time when it has become increasingly difficult to find viable interconnection locations for new renewable energy development, Madras Solar has identified a location that has proven to be an economically viable interconnection location for its proposed solar facility. Unfortunately, however, due to the unique circumstance of the proposed interconnection point being located on a licensed hydropower project's generator tie line that is jointly owned by, and jointly licensed to, a public utility and a non-public utility, Madras Solar has reached a dead end from which it cannot escape without this Commission's assistance.

Specifically, this case arises from Madras Solar's attempt to obtain interconnection for its proposed solar facility to the Pelton-Round Butte 230 kilovolt ("kV") line, which is one of the

[1] 18 C.F.R. § 385.204 & § 385.207.
[2] 16 U.S.C. § 824i, § 824j, & § 824k.

EXHIBIT 1

generator tie lines of the Pelton-Round Butte Project (Hydropower Project No. 2030). While Portland General Electric Company ("PGE") is a public utility and operates the generator tie line as part of its transmission system, the Pelton-Round Butte Project, including the generator tie line at issue, are jointly owned by, and jointly licensed to, PGE and a non-public utility—the Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribes").

Madras Solar plans to sell its facility's entire net output to PGE under a power purchase agreement entered into pursuant to the mandatory purchase provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA")[3] with delivery to PGE at the point where the solar facility interconnects to Pelton-Round Butte 230 kV line. Thus, PGE and Madras Solar entered into a Large Generator Interconnection Agreement offered to on-system qualifying facilities ("QF") pursuant to the Public Utility Commission of Oregon's ("OPUC") implementation of the PURPA (the "QF-LGIA"). However, PGE has insisted that Madras Solar must also obtain the consent of its co-owner and co-licensee on the tie line—the Tribes—before PGE will file an application to amend the hydropower license to permit commencement of construction of the solar facility's interconnection. Despite good faith efforts, Madras Solar has been unable to secure the Tribes' consent. Indeed, the Tribes maintain that—despite the QF-LGIA with PGE—the Pelton-Round Butte 230 kV line is a "private" line to which Madras Solar *has no right to interconnect*.

This Commission's precedent clearly proscribes public utilities from "partnering" with non-public utilities through joint ownership arrangements to bar interconnection by competing generators, such as Madras Solar.[4] Further, this Commission has also confirmed, in *City of Tacoma v. S. Columbia Basin Irrigation Dist.*,[5] that nothing in the Part I of the Federal Power Act entitles

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3 16 U.S.C. § 824a-3 *et seq.*

4 *Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277, 1281 (D.C. Cir. 2007).

5 118 FERC ¶ 61,202, PP 33-36 (March 15, 2007).

hydropower licensees to unilaterally deny interconnection to the transmission facilities of licensed hydropower projects. Madras Solar respectfully requests that the Commission invoke those well-established precedents here to enable Madras Solar's proposed interconnection to the Pelton-Round Butte 230 kV line.

Madras Solar first petitions for a declaratory order to remove the uncertainty caused by the Tribes' position that the QF-LGIA provides Madras Solar no right to interconnect to the Pelton-Round Butte 230 kV line and PGE's related position that the Tribes may unilaterally deny Madras Solar's interconnection rights due to their co-ownership of the line. The Federal Power Act, PURPA, and this Commission's implementation of those laws require that in the case of transmission facilities co-owned by a public utility with a non-public utility, the public utility (here, PGE) must interconnect to a generation facility (here, Madras Solar) whether the non-public utility (here, the Tribes) consents or not. Thus, the Commission should issue a declaratory order clarifying that Madras Solar has no need for a separate interconnection or transmission services agreement with the Tribes.

Next, *in the alternative*, to the extent the Commission declines to issue the requested declaratory order, Madras Solar applies, pursuant to FPA Sections 210, 211, and 212,[6] for an order from the Commission requiring that the Tribes and PGE take such action as may be necessary to make effective the proposed interconnection of Madras Solar to the Pelton-Round Butte 230 kV line. Out of an abundance of caution, Madras Solar applies under both FPA Section 210 and Section 211, even though it appears that only Section 210 could be necessary here. All requirements are met under FPA Sections 210 and 211. If the Commission reaches the FPA Sections 210 and 211 application, PGE's existing interconnection studies and available form large

[6] 16 U.S.C. § 824i, § 824j, & § 824k.

PUBLIC VERSION

generator interconnection agreement for FERC-jurisdictional interconnections should be used to expedite the interconnection.

Further, regardless of whether the Commission determines Madras Solar's right to interconnect arises under its existing QF-LGIA or under FPA Sections 210 and 211, the Commission should reject the notion that PGE or the Tribes have the unilateral right under FPA Section 6 to deny interconnection to their licensed project's transmission facilities. Specifically, as it did in *City of Tacoma*, the Commission should exercise its reserved authority in the Pelton-Round Butte Project's license to provide notice of intent to amend the hydropower license to the extent necessary to allow Madras Solar's interconnection.

Madras Solar also respectfully requests expedited action by the Commission with issuance of an order as soon as possible. As explained in more detail herein, the delay in amending the hydropower license has put development of the solar facility far behind schedule and now threatens the viability of the proposed solar facility altogether. **[BEGIN CUI//PRIV]** [redacted] **[END CUI//PRIV]**

II. Communications

All communications and filings in this proceeding should be served to the following persons, whose names should be placed on the Commission's official service list for this proceeding:

Gregory M. Adams*
Peter J. Richardson
Richardson Adams, PLLC
515 North 27th Street
Boise, Idaho 83702
208-938-2236
greg@richardsonadams.com*
peter@richardsonadams.com

Attorneys for Madras PV1, LLC

Madras PV1, LLC
c/o Ecoplexus Inc.
600 Park Offices Drive, Suite 285
Durham, NC 27709
legalnotices@ecoplexus.com*

*Denotes addresses to be included on the official service list.

III. Factual Background

Madras PV 1, LLC, in conjunction with its parent company, Ecoplexus Inc. and affiliates, are developing the proposed Madras Solar facility near Madras, Oregon. The proposed facility is self-certified as a QF under PURPA with a power production capacity of approximately 65 megawatts ("MW").[7] This case centers on Madras Solar's attempt to obtain interconnection to sell its proposed facility's net output to PGE through one of the generator tie lines of the Pelton-Round Butte Project (Hydroelectric Project No. 2030), specifically the Pelton-Round Butte 230 kV line.

A. The Pelton-Round Butte Project and Pelton-Round Butte 230 kV Line

The Pelton-Round Butte Project is a 447 MW three-dam complex, co-owned by PGE and

[7] *See* FERC Docket No. QF17-1497.

the Tribes, and located on the Deschutes River near Madras, Oregon.[8] The Round Butte Dam is the farthest upstream, followed by the Pelton Dam, and farthest downstream is the Reregulating Dam.[9] The output from the Round Butte and Pelton powerhouses is transmitted through generator lead lines to the Round Butte Substation.[10] In turn, the Round Butte Substation connects to the larger transmission system, including PGE's 100-mile Round Butte-Bethel 230 kV transmission line that connects to PGE's load center but is not a part of the licensed project.[11] On the western side of the Deschutes River, the project boundary includes lands within the Tribes' reservation, but the Pelton-Round Butte 230 kV line runs along the opposite side of the river for 7.9 miles from the Pelton powerhouse to the Round Butte Substation.[12]

The Pelton-Round Butte Project was historically owned and licensed solely by PGE, but is now jointly owned by, and licensed to, PGE and the Tribes. In 1951, the Federal Power Commission issued a 50-year license to PGE for the Project.[13] In 1980, FERC amended the license to allow the Tribes to construct power generation facilities in the Reregulating Dam as a joint licensee.[14] PGE and the Tribes subsequently filed competing applications for a new license, but they entered into a settlement agreement, whereby PGE would sell the Tribes a 33.33 percent ownership interest in the Pelton and Round Butte facilities with future options for increasing tribal

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8 *See Portland Gen. Elec. Co.*, 111 FERC ¶ 61,450 (June 21, 2005) (hereafter the "Relicensing Order"); *see also* PGE's 2023 Clean Energy Plan and Integrated Resource Plan, Appendix E, p. 489, available at https://assets.ctfassets.net/416ywc1laqmd/3K90DGpYCyqQu9RoLagThu/e85d8569e4a1e9f111ad5499504e5aea/2023_CEP-IRP_Appendix_E.pdf.

9 Relicensing Order, 111 FERC ¶ 61,450 at PP 11-14.

10 *Id.* at PP 12-13 & 157. In contrast, the Reregulating powerhouse's output is initially delivered to PacifiCorp-owned facilities. *Id.*; *Portland Gen. Elec. Co.*, 100 FERC ¶ 62,147, at 64,181-64,183 (Aug. 28, 2002).

11 Relicensing Order, 111 FERC ¶ 61,450 at 62,928 & P 144.

12 *Id.* at PP 13, 107 & n. 45, 157.

13 *Id.* at P 3.

14 *Id.*

ownership.[15] PGE requested the Commission's authorization, pursuant to FPA Section 203,[16] to transfer 33.33 percent of PGE's ownership interests in the Pelton and Round Butte facilities to the Tribes, and the parties also requested transfer of the hydropower license to reflect the Tribes' newly proposed ownership share in the Pelton and Round Butte facilities.[17] The assets proposed for transfer included the Pelton-Round Butte 230 kV line at issue here.[18]

Among the documents supporting the proposed transaction, PGE and the Tribes filed a proposed "Ownership and Operation Agreement" (the "O&O Agreement").[19] The O&O Agreement appoints PGE as the "operator" and "agent" for the Tribes with respect to the project,[20] and it also provides PGE with a right of access to, and control over, the entire project on behalf of both owners.[21] The O&O Agreement also specified that the Tribes would deliver their share of the project's electrical output over the generator tie lines, including the Pelton-Round Butte 230 kV line, for sale to PGE at the Round Butte Substation.[22]

The Commission approved the proposed transfer of 33.33 percent of PGE's ownership interests in these jurisdictional assets to the Tribes, including the proposed O&O Agreement, as an

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15 *Id.* at PP 2-4; *Portland Gen. Elec.*, 93 FERC ¶ 61,183, at 61,601-61,603 (Nov. 21, 2000) (hereafter the "License Transfer Order").

16 16 U.S.C. § 824b.

17 License Transfer Order, 93 FERC ¶ 61,183 at 61,600; *Portland Gen. Elec. Co.*, 93 FERC ¶ 61,184 (Nov. 21, 2000) (hereafter the "FPA Section 203 Order").

18 FPA Section 203 Order, 93 FERC ¶ 61,184 at 61,606 (explaining that the assets conveyed to the Tribes included interests in the "generator leads, step-up transformers and substations").

19 A copy of the O&O Agreement is attached as Exhibit 16. The O&O Agreement was filed in unexecuted form in support of the FPA Section 203 application in Docket No. EC00-08 on April 21, 2000. As drafted and executed, it was effective as of January 1, 2002. The executed version of the O&O Agreement attached hereto is a copy of the document filed by PGE in OPUC Docket No. UM 1704.

20 Exhibit 16, O&O Agreement at Art. 3.1.

21 *See* Exhibit 16, O&O Agreement at Art. 2.4(d).

22 *See* Exhibit 16,O&O Agreement at Art. 5 (entitling Tribes to sell their share of project output to PGE); *Id.* at Art. 5.1(a) ("The Tribes Allocation shall be delivered to PGE at the 230 kV bus in the Round Butte switchyard"); *id.* at Art. 5.8 ("The [Pelton Regulating Dam] Net Output shall be delivered to PGE at the 230 kV bus in the Round Butte switchyard".).

acceptable transfer of utility property.[23] The Commission also amended the hydropower license to reflect the Tribes' new status as co-licensee of the entire project.[24]

In 2005, the Commission also issued a new license with PGE and the Tribes as co-licensees.[25] The current ownership allocation appears to be that the Tribes own 49.9 percent of the project assets, and PGE owns 50.1 percent.[26] The O&O Agreement appears to remain in effect, and PGE and the Tribes have identified for Madras Solar no amendments or other agreements filed with the Commission regarding the operation of the project's generator tie lines.

B. Madras Solar's Development Efforts and QF-LGIA

Madras Solar has been under development for over five years.[27] The proposed solar facility is located on private land east of the Pelton-Round Butte Project's licensed boundary. Madras Solar proposed to interconnect to the Pelton-Round-Butte 230 kV line at a point approximately 4.9 miles north of PGE's Round Butte Substation, and to sell its net output to PGE at that point.[28] The attached area map depicts the general location of the proposed Madras Solar facility in relation to the Pelton-Round Butte Project.[29]

Madras Solar submitted an interconnection request to PGE and funded multiple interconnection studies under PGE's interconnection process.[30] PGE's studies identified all

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23 FPA Section 203 Order, 93 FERC ¶ 61,184 at 61,606-61,607.

24 License Transfer Order, 93 FERC ¶ 61,183 at 61,603 (noting that previously the Tribes were "essentially a licensee for only the Reregulating Powerhouse," but "their acquisition of an undivided 33.33 percent interest in the entire project requires that the license be amended to reflect that the Tribes are at that point co-licensee for the entire project.").

25 Relicensing Order, 111 FERC ¶ 61,450.

26 *See* PGE's 2023 Clean Energy Plan and Integrated Resource Plan, Appendix E, p. 489, available at https://assets.ctfassets.net/416ywc1laqmd/3K90DGpYCyqQu9RoLagThu/e85d8569e4a1e9f111ad5499504e5aea/2023_CEP-IRP_Appendix_E.pdf (stating PGE owns 50.1 percent); *see also* FPA Section 203 Order, 93 FERC ¶ 61,184 at 61,606 (describing Tribes' right to exercise options to increase ownership share).

27 Exhibit 1, Declaration of Erik Stuebe, at ¶ 4.

28 *Id.* at ¶ 5.

29 *Id.*; Exhibit 2, General Location Map of Proposed Madras Solar Facility.

30 The two key interconnection studies are attached as exhibits: Exhibit 3, PGE's System Impact Re-Study, dated July 12, 2019; and Exhibit 5, PGE's Facilities Study, dated Feb. 10, 2021.

interconnection and network upgrades needed to safely interconnect the solar facility as proposed. The PGE-produced studies proposed to split the Pelton-Round Butte 230 kV line and loop it through a new point of interconnection substation to be located approximately 4.9 miles north of the Round Butte Substation.[31] To support network resource interconnection service and ensure PGE's capability to deliver Madras Solar's output to PGE's loads over the non-project Round Butte-Bethel line, PGE will require installation of a fixed series capacitor adjacent to the Round Butte Substation, among other network upgrades.[32] PGE estimated a total cost of over $23 million for the network upgrades.[33]

Although Madras Solar initially filed a complaint against PGE at the OPUC to resolve certain disputes with PGE related to its proposed interconnection and sale under PURPA,[34] Madras Solar and PGE resolved their dispute and executed a power purchase agreement and an interconnection agreement that requires the upgrades PGE proposed in the interconnection studies as discussed above.[35] During the OPUC proceeding, PGE concluded that the interconnection was an "on-system" QF interconnection, and thus the parties used PGE's OPUC-jurisdictional QF-LGIA form as opposed to PGE's FERC-jurisdictional LGIA in its Open Access Transmission Tariff ("OATT").[36] Notably, the OPUC-jurisdictional QF-LGIA contains significant disadvantages for

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[31] *See* Exhibit 3, PGE's System Impact Re-Study, dated July 12, 2019, at 5 & 13-16; *see also* Exhibit 5, PGE's Facilities Study, dated Feb. 10, 2021, at 5-12.

[32] Exhibit 3, PGE's System Impact Re-Study, dated July 12, 2019, at 13-16; *see also* Exhibit 5, PGE's Facilities Study, dated Feb. 10, 2021, at 5-12.

[33] *See* Exhibit 5, PGE's Facilities Study, dated Feb. 10, 2021, at 8-14.

[34] *See* OPUC Docket No. UM 2009, https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=21894.

[35] Exhibit 1, Declaration of Erik Stuebe, at ¶ 7. The QF-LGIA is attached as Exhibit 6. The parties have also amended the QF-LGIA once, and the QF-LGIA First Amendment is attached as Exhibit 7. The interconnection studies and the initial QF-LGIA describe the Madras Solar facility as including battery energy storage, but the final configuration, as reflected in the amended QF-LGIA, does not include storage. Exhibit 7, Madras Solar-PGE QF-LGIA First Amendment, dated July 11, 2023, at Appendix C.

[36] *See* Exhibit 4, PGE's Response to Madras Solar's Data Request Response No. 63, OPUC Docket No. UM 2009, dated Oct. 28, 2019 ("PGE confirms that Madras Solar proposes to interconnect to PGE's transmission system and that PGE has therefore determined that Madras Solar is an on-system QF.").

PUBLIC VERSION

Madras Solar and benefits for PGE and the Tribes, including that unlike a FERC-jurisdictional LGIA, the QF-LGIA does not entitle Madras Solar to a refund for all network upgrades, which total over $23 million in this case.[37] Nevertheless, based on PGE's position and to move the solar project forward, Madras Solar executed the OPUC-jurisdictional QF-LGIA.[38]

Under the terms of the executed QF-LGIA, the point of delivery of Madras Solar's net output to PGE will be the point where the Madras Solar's own generator lead line enters a new PGE-owned point of interconnection substation through which the Pelton-Round Butte 230 kV line will be routed.[39] PGE would take title to the Madras Solar's net output at that point and designate the resource as network resource under Part III of PGE's OATT.[40] Accordingly, aside from the executed QF-LGIA, there should be no need for any other transmission services agreement to deliver the net output to the point where PGE will take title to it.

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[37] *See* Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 11.4 & Appendix A, p. 5; *see also id.* at Art. 12.2 (requiring interconnection customer to pay for network upgrades); *compare to* Exhibit 17, PGE's OATT LGIA, at Art. 11.4 (providing for repayment of all amounts advanced by the interconnection customer for network upgrades plus interest within 20 years after achieving commercial operation).

[38] Exhibit 1, Declaration of Erik Stuebe, at ¶ 8.

[39] Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 1, p. 8 ("Point of Change of Ownership shall mean the point, as set forth in Appendix A to the QF-LGIA, where the Interconnection Customer's Interconnection Facilities connect to the Transmission Provider's Interconnection Facilities."); *id.* ("Point of Interconnection shall mean the point, as set forth in Appendix A to the QF-LGIA, where the Interconnection Facilities connect to the Transmission Provider's Transmission System."); *id.* at Appendix A, p. 1 ("The Point of Change of Ownership between the Interconnection Customer's generator lead line and the POI substation will be at the last dead-end structure before entering the POI substation. . . . The conductors and any disconnecting devices between the Point of Change of Ownership and the POI substation bus are considered the Transmission Provider's Interconnection Facilities."); *accord* Exhibit 7, Madras Solar-PGE QF-LGIA First Amendment, dated July 11, 2023, at Appendix A (same); **[BEGIN CUI//PRIV]** [redacted] **[END CUI//PRIV]**

[40] Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 4.2 ("Transmission Provider shall provide Network Resource Interconnection Service for the Large Generating Facility at the Point of Interconnection.").

PUBLIC VERSION

All Madras Solar-owned interconnection facilities and certain PGE-owned facilities (including the point of interconnection substation) will be located on private land to which Madras Solar has acquired property interests.[41] However, based on PGE's studies, certain interconnection and network upgrade facilities are located within the licensed boundary of the Pelton-Round Butte Project.[42] In particular, the lands proposed to be used for the fixed series capacitor substation and the lands within the existing right of way through which the Pelton-Round Butte 230 kV line runs, adjacent to the newly proposed point of interconnection substation, are within the license boundary and thus co-owned by the Tribes.[43]

PGE takes the position that, prior to beginning interconnection construction, the Pelton-Round Butte Project's license must be amended to accommodate the non-project use of Madras Solar's interconnection.[44] The QF-LGIA requires Madras Solar to "reasonably cooperate" with PGE with respect to the non-project use amendment, including by: "(1) completing required environmental and cultural resources studies and reports in support of the filing; and (2) providing any information reasonably requested by Transmission Provider in connection with such filing, including, but not limited to, information necessary to address stakeholder and agency comments during the drafting and review process."[45]

After experiencing delays in coordinating with the Tribes and PGE, Madras Solar has now completed the QF-LGIA's identified environmental and cultural resources study—utilizing the

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41 Exhibit 1, Declaration of Erik Stuebe, at ¶ 9.

42 *Id.*

43 *Id.*; *see also* Exhibit 5, PGE's Facilities Study, dated Feb. 10, 2021, at 7 (POI Substation); *id.* at 10 (series capacitor substation); *id.* at 13 (Pelton-Round Butte 230 kV line).

44 *See* Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 3.1 ("Because the Point of Interconnection is within the boundary of a FERC-regulated hydroelectric project (the Pelton-Round Butte Project, FERC No. 2030, which is co-owned by Transmission Provider and the Confederated Tribes of Warm Springs), Transmission Provider will be required to file a request at FERC for approval of a non-project use of project land.").

45 Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 3.1.

Tribes' preferred consultant for cultural studies—and sent the final draft of that study to PGE for inclusion in the application for license amendment.[46] The study concludes that the proposed solar facility's interconnection project will not present significant environmental, cultural, or recreational impacts, and therefore allowing its construction within the Pelton-Round Butte Project's license boundary does not present a conflict with the hydropower licensing requirements.[47] Madras Solar has also obtained all non-ministerial state, local, and federal permits (aside from hydropower license amendment).[48] The key permitting step precluding commencement of construction of the Madras Solar facility is the amendment of the Pelton-Round Butte Project's license.[49]

C. PGE and Tribes' Refusal to File an Application for License Amendment

Given that the proposed interconnection has no impact on the water available for the hydropower operations, that the proposed interconnection minimizes environmental impact by interconnecting to existing infrastructure, and that Madras Solar is allocated the costs of upgrading the PGE and Tribes' facilities in the QF-LGIA, the amendment of the hydropower license should be relatively straightforward and uncontroversial. However, PGE and the Tribes have clearly expressed that they will *not* file an application for license amendment—threatening the viability of Madras Solar.

For its part, PGE has insisted that the Tribes must consent to the interconnection and maintains that Madras Solar has the sole responsibility to obtain such consent from the Tribes.[50]

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46 Exhibit 1, Declaration of Erik Stuebe, at ¶ 12.

47 *Id.*

48 *Id.*

49 *Id.*

50 *See* Exhibit 9, PGE's Letter Re LGIA Milestones, dated February 6, 2024, at 4 ("PGE wishes to underscore in all circumstances and in every respect it is the responsibility and the obligation of Madras, and Madras alone, to obtain the express approval of the Tribe for the FERC application.").

PUBLIC VERSION

As amended, the QF-LGIA includes a milestone date of no later than December 30, 2023, by which the parties intended for PGE to file the license amendment application to achieve a revised operation date in the QF-LGIA of December 31, 2025.[51] **[BEGIN CUI//PRIV]** [redacted] **[END CUI//PRIV]**

While Madras Solar disagrees with PGE's attempt to allocate all responsibility to amend the hydropower license to Madras Solar, Madras Solar has engaged in extended and good faith efforts to secure the Tribes' amicable consent to the interconnection and amendment of the license.[53] Over a period of approximately two years, Madras Solar has had numerous meetings with the Tribes' representatives, including Warm Springs Power and Water Enterprises, which the Tribes have explained is a wholly owned enterprise of the Tribes and was formed, in part, to manage the Tribe's interests as owner in the hydropower project.[54] Yet, Madras Solar has been unable to secure the Tribes' consent.[55]

Finally, even though Madras Solar maintains the QF-LGIA negates the need for a separate interconnection or transmission services agreement with the Tribes, Madras Solar sent the Tribes a good faith request for interconnection and transmission services, including all information

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51 Exhibit 7, Madras Solar-PGE QF-LGIA First Amendment, dated July 11, 2023, at Appendix B; The December 30, 2023 QF-LGIA milestone specifies two conditions: (1) Madras Solar's completion of environmental and cultural studies and necessary permits, and (2) "support for the FERC application in writing from the Joint Licensee of the Pelton-Round Butte Project, the Confederated Tribes of Warm Springs." Exhibit 7, Madras Solar-PGE QF-LGIA First Amendment, dated July 11, 2023, at Appendix B.

52 **[BEGIN CUI//PRIV]** [redacted] **[END CUI//PRIV]**

53 Exhibit 1, Declaration of Erik Stuebe, at ¶ 15.

54 *Id.*

55 *Id.*

required by 18 C.F.R. § 2.20(b).[56] Madras Solar proposed the interconnection would be pursuant to the terms of the executed QF-LGIA and further stated:

> However, to the extent that [the Tribes] can identify some authority or right to insist on additional compensation for use of the hydropower project's transmission facilities beyond that provided for in the LGIA, we hereby formally request, on behalf of Madras Solar, that [the Tribes] identify the basis for such right and the additional terms and conditions of interconnection and transmission service [the Tribes] would require."[57]

The Tribes' responded, through Warm Springs Power and Water Enterprises, by expressing their belief that the Pelton-Round Butte 230 kV line is a "privately owned gen-tie" to which Madras Solar may not interconnect.[58] Indeed, the Tribes assert that, "[n]otwithstanding the Large Generator Interconnection Agreement between [Madras Solar] and PGE, [Madras Solar] has no interconnection rights to the Tribe's facilities."[59] The Tribes assert that Madras Solar should construct a separate generator tie line to PGE's Round Butte substation.[60]

Thus, in the months that have passed after the QF-LGIA's goal of filing the license amendment application on December 01, 2023, it has become clear that PGE will not file any

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[56] *Id.* at ¶ 16; Exhibit 12, Madras Solar's Letter and Good Faith Interconnection and Transmission Service Request to Tribes, dated June 7, 2024, at 2 (explaining, "while Madras Solar maintains that [the Tribes have] no right to impose any additional terms for use of the transmission facilities beyond the requirements of the executed and enforceable QF-LGIA with the authorized operator of the facilities (which is PGE), Madras Solar is submitting, *in the alternative*, a good faith request for service on terms [Tribes] would require.").

[57] Exhibit 12, Madras Solar's Letter and Good Faith Interconnection and Transmission Service Request to Tribes, dated June 7, 2024, at 2.

[58] Exhibit 13, Warm Springs Power and Water Enterprises' Letter Rejecting Madras Solar Interconnection and Transmission Services Request, dated June 24, 2024, at 1.

[59] Exhibit 13, Warm Springs Power and Water Enterprises' Letter Rejecting Madras Solar Interconnection and Transmission Services Request, dated June 24, 2024, at 1 ("The Tribe takes the position that [Madras Solar] has no right to interconnection on the Pelton generator lead line.").

[60] Exhibit 11, Warm Springs Power and Water Enterprises' Letter Re Madras Solar Interconnection, dated May 20, 2024, at 1 ("As we understand your request, you wish to utilize Tribally-owned (with PGE) Project facilities and lands *in lieu* of constructing your own generation-tie line to the point of interconnection at the Round Butte Substation. . . . It is not the responsibility of the Tribe to offer use of Project facilities to Madras PV1 to avoid costs that it otherwise should have planned for as a project cost . . .").

license amendment application.[61] Most recently, PGE argues it has "no authority to complete the interconnection or file the FERC non-project use amendment to the hydro license without the Tribes' prior approval" and further, that "FERC has no authority under the Federal Power Act to approve any such amendment of the Project License without the Tribes' consent."[62]

IV. Petition for Declaratory Order

A. Introduction: The Commission Should Issue a Declaratory Order Finding that Because Madras Solar Has a Right to Interconnect to the Pelton-Round Butte 230 kV Line Pursuant to its QF-LGIA with PGE, No Separate Interconnection or Transmission Services Agreement with the Tribes Is Necessary to Interconnect the Solar Facility for Sale of Net Output to PGE.

The Commission should clarify through a declaratory order that Madras Solar's QF-LGIA precludes the need for a separate FERC-jurisdictional interconnection and/or transmission services agreement with PGE or the Tribes. Such a declaratory order is necessary to remove the uncertainty caused by the Tribes' position that the QF-LGIA provides Madras Solar no right to interconnect to the Pelton-Round Butte 230 kV line and PGE's related position that the Tribes may unilaterally deny Madras Solar's interconnection rights due to their co-ownership of the line. As explained below, the Commission should reject those positions for two independent reasons. *First*, in the case of transmission facilities co-owned by a public utility with a non-public utility, the FPA and PURPA require the public utility (here, PGE) to interconnect to a generation facility (here, Madras Solar) whether the non-public utility (here, the Tribes) consents or not. *Second*, although no side agreement between PGE and the Tribes could lawfully deny such interconnection, the O&O Agreement between PGE and Tribes affirmatively confirms that PGE was required to, and did, enter into the QF-LGIA in its capacity as agent and operator of the Pelton-Round Butte Project on

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61 Exhibit 1, Declaration of Erik Stuebe, at ¶ 18.

62 Exhibit 14, PGE's Letter, dated August 6, 2024, at 2-3.

behalf of both owners of the project.

B. Under the FPA, PURPA, and this Commission's Rules Governing Transmission Facilities Co-owned by a Public Utility and a Non-Pubic Utility, PGE Was Required to Enter Into the QF-LGIA, and No Other Interconnection or Transmission Services Agreement with the Tribes Is Necessary.

The Commission has clearly explained that public utilities may not partner with non-public utilities to preclude open access to transmission facilities partially owned by the public utility. For the reasons explained below, that policy applies here and establishes that no further interconnection agreement with the Tribes is necessary for Madras Solar.

PGE is a public utility, and the Pelton-Round Butte 230 kV line is a part of PGE's transmission system subject to the FPA and this Commission's open access rules.[63] The OATT and all other open access requirements apply because the Pelton-Round Butte Project's tie lines are not PGE's only jurisdictional transmission facilities.[64] The fact that the Tribes obtained an ownership interest in that generator tie line did not change the line's open access status under this Commission's longstanding rules.

In Order No. 888,[65] the Commission examined this issue and determined that public

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[63] 16 U.S.C. § 824(e); 18 C.F.R. § 35.28; *see also* Exhibit 3, PGE's System Impact Re-Study, dated July 12, 2019, at 9 ("The PGE Transmission System in Central Oregon consists of [Pelton Round Butte], *the generation lead lines from [Pelton Round Butte] to the Round Butte substation . . .*" (emphasis added)); Exhibit 4, PGE's Response to Madras Solar's Data Request Response No. 63, OPUC Docket No. UM 2009, dated Oct. 28, 2019 ("Madras Solar proposes to interconnect to PGE's transmission system").

[64] *See Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211, PP 41 & 43 (March 19, 2015) (exempting public utilities from certain OATT requirements where such requirements apply "solely because it owns, controls, or operates [Interconnection Customer Interconnection Facilities] in whole or in part, and sells electric energy from its generating facility").

[65] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission on Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.,* Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g,* Order No. 888–A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048, *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (Nov. 25, 1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (Jan. 20, 1998), *aff'd in relevant part sub nom. Transmission Access Pol'y Study Grp.* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. N.Y.* v. *FERC,* 535 U.S. 1 (2002).

utilities may not rely on co-ownership with non-public utilities to deny open access to transmission facilities. The Commission stated: "We will not allow public utilities that jointly own interstate transmission facilities with non-jurisdictional entities to escape the requirements of open access."[66] Indeed, open access applies to such jointly owned facilities "even if the joint ownership contract prohibits service to third parties."[67] Thus, the Commission ordered public utilities to amend and file with Commission any agreement with a non-public utility that might preclude third-parties' open access and to remove such restrictions unilaterally if necessary.[68] In Order No. 888-A, the Commission rejected challenges to this policy despite its impact on non-public utilities, explaining: "Otherwise, a public utility could simply enter into joint agreements with non-jurisdictional utilities to the frustration of the Commission's mandate to protect consumers from undue discrimination."[69]

This Commission's policy on jointly owned facilities was in effect at the time the Tribes acquired an interest in the Pelton-Round Butte 230 kV line in 2000 through the Commission-approved transfer of assets and supporting agreements, including the O&O Agreement. In this Commission's words: "When the contract was entered into and filed with the Commission it was with the explicit knowledge that the Commission could regulate the rates, terms and conditions of the contract with respect to the jurisdictional services provided thereunder by the public utility."[70] And this policy remains in place today for any unfiled side agreements that PGE and the Tribes

66 Order No. 888, 61 Fed. Reg. 21,540 at 21,573.
67 *Id*.
68 *Id.* ("For those joint ownership arrangements that include restrictions on the usage of jointly owned transmission facilities by third parties, we will require the public utilities, in a section 206 compliance filing, to file with the Commission, by December 31, 1996, a proposed revision (mutually agreeable or unilateral) to its contract with the non-jurisdictional owner(s).").
69 Order No. 888-A, 62 Fed. Reg. at 12,300.
70 Order No. 888-A, 62 Fed. Reg. at 12,300.

may have purported to enter into since they filed the O&O Agreement in 2000.[71]

Further to the point here, the Commission expressly required open *interconnection* access to such jointly owned facilities in Order No. 2003.[72] A public utility objected that "should negotiations be unsuccessful [with the non-public utility], it is unclear how the jurisdictional public utility can permit interconnection only to the public utility's 'portion' of the facilities[.]"[73] But the Commission explained: "If a portion of a facility is owned by a jurisdictional public utility, the Interconnection Customer seeking interconnection for a Commission-jurisdictional purpose will be able to secure interconnection to that facility under the terms of Order No. 2003 through the jurisdictional co-owner of the facility."[74] Just as in Order No. 888, the Commission required that "should the joint ownership agreement prohibit or restrict the right of the public utility to offer interconnection service to third parties, the public utility must make a section 206 compliance filing containing proposed revisions (mutually agreeable or unilateral) to its contracts with the non-jurisdictional co-owners to remove those restrictions."[75]

Thus, both before and after the time that PGE transferred to the Tribes an ownership interest in the Pelton-Round Butte 230 kV line in 2000 the Commission has made clear that joint ownership agreements—such as the O&O Agreement—*may not* restrict the right of any generator, including Madras Solar, to access the transmission facilities. Madras Solar properly requested service from the jurisdictional public utility as this Commission's rules require. Further, despite PGE's

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71 18 C.F.R. § 35.28(c)(iii).

72 *See Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at P 807 (July 24, 2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220 (March 5, 2004), *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (Dec. 20, 2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (June 16, 2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs*, 475 F.3d 1277.

73 Order No. 2003-A, 106 FERC ¶ 61,220 at P 749.

74 *Id.* at P 753.

75 *Id.* at P 754.

longstanding insistence that Madras Solar is solely responsible for obtaining the Tribes' consent to the interconnection, the Commission said that is PGE's responsibility: "If the non-jurisdictional co-owner does not have a reciprocity tariff, then the Interconnection Request should go to the Commission-jurisdictional co-owner, *who must then work with its non-jurisdictional co-owner to coordinate the study process*."[76]

Notably, the D.C. Circuit Court of Appeals expressly affirmed the Commission's joint-ownership policy. In a challenge to Order No. 2003, the court rejected the argument that construction of an interconnection to a jointly owned line would violate the non-public utility's rights.[77] The court agreed with the Commission that "jurisdictional utilities should not be able, without linguistic support from Congress, to escape regulation simply by partnering with non-jurisdictional utilities."[78] Just as it did in Order No. 888, FERC properly removed non-public utilities' "hitherto valid veto power over the proposed use" of the jointly owned facilities.[79]

The fact that Madras Solar executed a QF-LGIA—as opposed to a FERC-jurisdictional LGIA offered through PGE's OATT—makes no difference and creates no need for a further agreement with the Tribes. Under Commission precedent, a QF interconnection is FERC-jurisdictional "when an electric utility interconnecting with a QF does not purchase all of the QF's output[.]"[80] In contrast, if the electric utility interconnecting with the QF purchases the QF's entire

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[76] *Id*. at P 755 (emphasis added); *compare to* Exhibit 14, PGE's Letter, dated August 6, 2024, at 5 (responding to inquiry as to whether PGE believes the Tribes may require a separate interconnection agreement as follows: "PGE takes no position on whether agreements between Madras and the Tribes are required; that is a matter for Madras to resolve with the Tribes, as PGE has made clear through the duration of the Madras project's development.").

[77] *Nat'l Ass'n of Regulatory Util. Comm'rs*, 475 F.3d at 1281-82.

[78] *Id*. at 1281 (internal quotation omitted).

[79] *Id.* at 1282.

[80] Order No. 2003, 104 FERC ¶ 61,103, at P 813; *see also Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,991-61,992 (July 30, 1993), *order on reh'g*, 65 FERC ¶ 61,081 (Oct. 19, 1993) (the Commission "alone exercises authority over QF interconnections with utilities standing between the QF and its purchaser, i.e., agreements under which third-party utilities, which do not purchase QF-generated power, nevertheless transmit QF power in

net output, the QF enters into the interconnection agreement pursuant to the state's implementation of the Commission's mandatory purchase rules.[81] Madras Solar had understood that no interconnection service or transmission service from the Tribes would be necessary to interconnect and sell all net output to PGE, and PGE proposed to use the OPUC-jurisdictional QF-LGIA. However, a QF has no less rights than those available under Order No. 2003 when it comes to interconnecting to a jointly owned line—that is, the public utility is required to interconnect to the QF notwithstanding that the co-owner of the line is not a regulated public utility.

PURPA and this Commission's implementation of it are clear that QFs have no fewer interconnection rights than non-QFs. Section 210(b) of PURPA affirmatively commands that the Commission's rules "(a) shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase . . . *shall not discriminate against qualifying cogenerators or qualifying small power producers*."[82] Thus, the Commission has held that QFs are entitled to the same non-discriminatory use of the interstate transmission grid as any traditional utility under the OATT.[83] And the Commission's mandatory purchase provisions require that such interconnections

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interstate commerce."); *see also id.* at 61,992 ("even if the QF or the utility customer does not actually take transmission service as soon as the line enters the grid, the interconnection agreement 'facilitates' future service and falls within our section 205 jurisdiction.").

[81] *See* Order No. 2003, 104 FERC ¶ 61,103, at P 813 ("when [an electric utility] purchases the QF's total output, the relevant state authority exercises authority over the interconnection and the allocation of interconnection costs.").

[82] 16 U.S.C. § 824a-3(b)(2) (emphasis added); *see also Environmental Action, Inc. v. FERC*, 939 F.2d 1057, 1061-62 (D.C. Cir. 1991) (reversing order that denied QF's equal benefit of mandatory wheeling required for other generators in utility merger because purpose of PURPA is "to ensure that large power producers do not discriminate against QFs"); *Pioneer Wind Park I, LLC*, 145 FERC ¶ 61,215, at P 37 & n 72 (Dec. 16, 2013) (curtailing QF energy deliveries before utility's other resources was unlawfully discriminatory).

[83] *See Pub. Serv. Co. of N.H. v. N.H. Elec. Coop., Inc.*, 83 FERC ¶ 61,224, at 61,998-62,000 (May 29, 1998), *reh'g denied*, 85 FERC ¶ 61,044 (1998) ("Virtually all public utilities that own interstate transmission facilities now provide open access transmission services pursuant to Order No. 888 and QFs are among the entities eligible to receive such service. . . . Any QF may employ NU's or the New England

to QFs be made on a non-discriminatory basis by the purchasing utility.[84]

Just as with non-QFs, public utilities may not partner with non-public utilities to restrict QFs' right to interconnect to co-owned transmission facilities. Nor should public utilities be permitted to frustrate interconnection by a QF to jointly owned facilities by forcing the QF to separately obtain interconnection to the non-public utility through Section 210 of the FPA. Indeed, the PURPA interconnection requirement exists in 18 C.F.R. § 292.303(c) because the Commission's efforts to encourage QFs consistent with PURPA "would be greatly hindered if it were to require qualifying facilities to utilize section 210 of the Federal Power Act as the exclusive means of obtaining interconnection."[85]

Under this legal framework, PGE was required to enter into the QF-LGIA, and no further interconnection agreement with the Tribes is necessary. Further, under Madras Solar's QF-LGIA, PGE would take title to Madras Solar's net output at the point where it flows onto the jointly owned PGE-Tribes facilities, and PGE would designate the facility as a network resource under Part III of PGE's OATT from that point onward—thus negating any need for Madras Solar to pay for any other wheeling or transmission service over the PGE-Tribes co-owned facilities.

C. The O&O Agreement Separately Confirms that PGE Had Authority to Enter Into the QF-LGIA and that No Further Interconnection Agreement Is Necessary with the Tribes.

Nothing in the O&O Agreement overcomes the Commission's open access policy for jointly owned lines. Instead, the O&O Agreement even supports the conclusion that PGE lawfully

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Power Pool's open access transmission tariff to reach NHEC and require NHEC to purchase that QF's power").

[84] *See* 18 C.F.R. § 292.303(c) ("any electric utility shall make such interconnection with any qualifying facility as may be necessary to accomplish purchases or sales . . ."); 18 CFR § 292.306 (interconnection charges to QF must be made "on a nondiscriminatory basis").

[85] *Small Power Production and Cogeneration Facilities, Regulations Implementing Sections 210 of the Public Utility Regulatory Policies Act of 1978*, Order No. 69, 45 Fed. Reg. 12,214, 12,221 (Feb. 25, 1980).

entered into the QF-LGIA in its capacity as agent and operator of the Pelton-Round Butte Project.

As noted above, the O&O Agreement designates PGE as the operator of the project and agent with access to all facilities to ensure compliance with applicable laws. Specifically, the O&O Agreement designates PGE "as agent for and on behalf of the Owners."[86] In that capacity, PGE "shall, in accordance with . . . all Applicable laws, orders, permits, and license, now or hereinafter effect: . . . operate and maintain the Project; . . . take any and all actions necessary or appropriate to comply with such Applicable Laws, orders, permits and licenses, now or hereafter in effect;" and it "shall have the rights and powers to . . . enter into contracts with third parties for and in behalf of the Owners."[87]

The O&O Agreement does not purport to restrict third parties' open access rights to the Pelton-Round Butte Project's transmission facilities. And in response to Madras Solar's requests, PGE and the Tribes have supplied no other agreements that purport to do so. Under the plain terms of the O&O Agreement, PGE had authority to enter into the QF-LGIA with Madras Solar—just as PGE was affirmatively required to do under this Commission's joint-ownership policy. In other words, this is not a case where "the joint ownership contract prohibits service to third parties."[88] That conclusion is further supported by the fact that the Commission's policy on access to jointly owned transmission facilities was well known through Order No. 888 before PGE proposed to transfer the transmission assets at issue to the Tribes in 2000. Yet PGE and the Tribes identified no restrictions on third-party access in seeking the Commission's approval of the asset sale. Notably, in approving that transfer, the Commission found the transfer of utility property was

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86 Exhibit 16, O&O Agreement at Art. 3.1(b).

87 Exhibit 16, O&O Agreement at Art. 3.1(b); *see also id.* at Art. 2.4(d) ("Each Owner and its designees shall have the right to go upon and into the Project at any time, subject to the necessity of efficient and safe construction and operation of the Project, but the Operator alone shall have possession and control of the Project for and on behalf of all of the Owners.").

88 Order No. 888, 61 Fed. Reg. 21,540 at 21,573.

"consistent with the public interest," which required the Commission to take into account, among other factors, "the effect on competition" and "the effect on regulation."[89] The Commission agreed that "federal regulation will not be impaired because the Commission will continue to have jurisdiction over and regulate the wholesale power sales *and transmission service provided by PGE*."[90] Further, after the Commission issued Order No. 2003 in 2003, PGE and the Tribes appear to have made no filing to remove restrictions against third party access because, apparently, none exist.

This conclusion is further bolstered by the warranties PGE made in the QF-LGIA as to its authority to execute and perform under that agreement. The QF-LGIA Recitals defined PGE as the "Transmission Provider and/or Transmission Owner," and PGE executed the QF-LGIA in that capacity.[91] PGE also warranted that it had the authority to execute the QF-LGIA and perform its tasks thereunder, without mention of a unilateral veto right or the need for the Tribes to execute the QF-LGIA.[92]

In sum, the Tribes are mistaken in believing that a generator tie line to a Commission-licensed hydropower project is "a privately owned gen-tie" that is outside the purview of open access because, among other reasons, the Tribes' co-owner is a public utility. Where the public utility co-owner that operates the line has executed an interconnection agreement with a QF for

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89 FPA Section 203 Order, 93 FERC ¶ 61,184 at 61,606-61,607.

90 *Id.* at 61,607 (emphasis added).

91 Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021 at p. 1.

92 *See* Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 28.1.2 ("Authority," providing: "Such Party has the right, power and authority to enter into this QF-LGIA, to become a Party hereto and to perform its obligations hereunder."); *id.* at Art. 28.1.3 ("No Conflict", providing: "The execution, delivery and performance of this QF-LGIA does not violate or conflict with . . . any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets."); *id.* at Art. 28.1.4 ("Consent and Approval," providing: "Such Party has sought or obtained, or, in accordance with this QF-LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this QF-LGIA, and it will provide to any Governmental Authority notice of any actions under this QF-LGIA that are required by Applicable Laws and Regulations.").

interconnection to such line, no separate interconnection agreement with the non-public utility is necessary. The Commission should so declare, and proceed to the question of amendment of the hydropower license (*see infra* Section VI.).

V. FPA Sections 210 and 211 Application

A. Summary of Application: In the Alternative, the Commission Should Grant Madras Solar's Application for Interconnection Under FPA Section 210 and, to the Extent Necessary, Transmission Services Under FPA Section 211.

Alternatively, to the extent the Commission declines to issue the requested declaratory order, Madras Solar applies, pursuant to FPA Sections 210, 211, and 212,[93] for an order from the Commission requiring that the Tribes and PGE take such action as may be necessary to make effective the proposed interconnection of Madras Solar's facility to the Pelton-Round Butte 230 kV line. As explained below, Madras Solar submits that the Commission should direct the use of the existing interconnection configuration proposed by PGE in Madras Solar's QF-LGIA, but that PGE's FERC-jurisdictional LGIA offered in its OATT should be used. However, to the extent the Commission disagrees, Madras Solar respectfully requests that the Commission establish such other terms for the interconnection and, if necessary, transmission services that the Commission deems just, reasonable, and non-discriminatory.[94]

Madras Solar applies under both FPA Section 210 and Section 211, even though it appears that only Section 210 could be necessary here. Ordinarily, an interconnection to a generator tie line may require both interconnection and transmission service to reach the transmission system at the end of the generator tie line.[95] However, under Madras Solar's proposed interconnection,

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93 16 U.S.C. § 824i, § 824j, & § 824k.

94 *See* 16 U.S.C. § 824k(a) ("Such rates, charges, terms, and conditions shall promote the economically efficient transmission and generation of electricity and shall be just and reasonable, and not unduly discriminatory or preferential.").

95 *See* Order No. 807, 150 FERC ¶ 61,211, at PP 104-107.

PGE would take title to the Madras Solar's net output at the point where the Madras Solar's own generator lead line enters a new PGE-owned point of interconnection substation through which the Pelton-Round Butte 230 kV line will be routed. PGE would arrange its own network transmission under Part III of PGE's OATT from that point onward.[96] Thus, Madras Solar seeks to transfer its net output to PGE without transmitting it over any intervening facilities co-owned by the Tribes and PGE before PGE takes title to the net output, which negates the need for a transmission services or wheeling agreement. In any event, out of an abundance of caution, Madras Solar includes an application under Section 211 for such transmission services as the Commission may determine are necessary to deliver Madras Solar's net output for sale to PGE.[97] If necessary, the requested transmission service would commence on the initial energization date of the proposed solar facility and correspond to the 10-year term (with annual renewal terms thereafter) as specified in Madras Solar's QF-LGIA Article 2, or such substitute interconnection agreement the Commission may order.

If the Commission reaches the Sections 210 and 211 application, PGE's existing interconnection studies and available form contracts should be used to expedite the interconnection. The Commission should direct that the interconnection configuration studied and contained in the Madras Solar's QF-LGIA should be used because there is no need for further delay with additional studies. However, if the Commission acts under FPA Sections 210 or 211 to require any further interconnection or transmission agreements with the Tribes, the interconnection would certainly be FERC-jurisdictional because "an electric utility [, the Tribes,] interconnecting

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[96] Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 4.2 ("Transmission Provider shall provide Network Resource Interconnection Service for the Large Generating Facility at the Point of Interconnection.").

[97] *See* Order No. 807, 150 FERC ¶ 61,211, P 104 ("An applicant may consolidate the applications for the Commission's consideration.").

with a QF does not purchase all of the QF's output[.]"[98] Thus, Madras Solar submits that PGE's FERC-jurisdictional LGIA offered in its OATT should be utilized if the Commission declines to issue the requested declaratory order and instead acts under FPA Sections 210 or 211.[99] There are important distinctions between Madras Solar's QF-LGIA and PGE's OATT LGIA—most notably the requirement in PGE's OATT LGIA that PGE must refund to Madras Solar all of the network upgrade costs it finances, which exceed $23 million in this case.[100]

Finally, the Commission should direct expedited execution of PGE's OATT LGIA without requiring Madras Solar to restart the interconnection process. Madras Solar relied on PGE's jurisdictional position in executing the QF-LGIA—which contains significant benefits to PGE—and Madras Solar should not be penalized with further delay of restarting with a new queue position if the Commission determines PGE's jurisdictional position was incorrect. The QF-LGIA itself and Commission precedent support a seamless transition to the FERC-jurisdictional LGIA without delay in this circumstance.[101] Because the interconnection studies have already been conducted and the upgrades necessary have been identified, there should be no issues of material fact. The Commission should therefore order the interconnection on an expedited basis without

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98 Order No. 2003, 104 FERC ¶ 61,103, at P 813.

99 *See City of Goose Creek v. S.C. Pub. Serv. Auth. Goose Creek*, 172 FERC ¶ 61,165, PP 120-122 (Aug. 27, 2020) (granting FPA Section 210 application and stating, "we direct the parties to negotiate whether any deviation from Santee Cooper's unfiled OATT is appropriate"); *Nev. Power Co.*, 110 FERC ¶ 61,029, P 21 (Jan. 21, 2005) (approving use of pro forma OATT for FPA Section 210 interconnection and explaining that the "order requested here would not shift costs to other customers because transmission service will be provided under the rates, terms, and conditions of Nevada Power's Open Access Transmission Tariff").

100 Exhibit 17, PGE's OATT LGIA, at Art. 11.4; *see also* Order No. 2003, 104 FERC ¶ 61,103, at PP 675-676, 693-696 (interconnecting generator entitled to refund of network upgrades it finances).

101 *See* Exhibit 6, Madras Solar-PGE QF-LGIA, dated April 8, 2021, at Art. 2.3.4 (stating that in the event the QF-LGIA is no longer subject to the OPUC's jurisdiction, PGE and Madras Solar shall execute a replacement QF-LGIA pursuant to PGE's OATT); Order No. 2003, 104 FERC ¶ 61,103, at P 815 (stating that when state-jurisdictional QF interconnection agreement becomes FERC-jurisdictional "it would be unreasonable for a Transmission Provider to require the former QF to join the interconnection queue").

holding an evidentiary hearing.[102]

B. FPA Section 210's Requirements Are Met.

FPA Section 210 provides, in relevant part:

> "Upon application of any electric utility … or qualifying small power producer, the Commission may issue an order requiring (A) the physical connection of . . . the transmission facilities of any electric utility, with the facilities of such applicant, (B) such action as may be necessary to make effective any physical connection . . . or (D) such increase in transmission capacity as may be necessary to carry out the purposes of any order under subparagraph (A) or (B)."[103]

An application under section 210 must show that the interconnection is: in the public interest; would either encourage conservation of energy or capital, optimize efficient use of facilities and resources, or improve reliability; and meets the requirements of Section 212.[104] These requirements are met here.

1. Section 210 Jurisdiction Exists.

a. Madras Solar qualifies as an "electric utility" and a "qualifying facility."

An "electric utility" is defined as "a person or Federal or State agency (including an entity described in section 201(f)) that sells electric energy."[105] Because Madras Solar intends to sell electric energy through the proposed interconnection, it qualifies as an "electric utility" for purposes of applications under FPA Sections 210 and 211.[106] Similarly, Madras Solar has self-certified its proposed facility as a QF in FERC Docket No. QF17-1497 and is thus also eligible to

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102 *THSI bn, LLC*, 185 FERC ¶ 61,032, P 63 (Oct. 19, 2023) (finding no need for evidentiary hearing where no disputed material facts existed on Section 210's criteria).

103 16 U.S.C. § 824i(a)(1).

104 16 U.S.C. § 824i(c).

105 16 U.S.C. § 796(22).

106 *Alternative Transmission Inc*., 182 FERC ¶ 61,163, P 11 (March 16, 2023); *THSI bn, LLC*, 185 FERC ¶ 61,032, at P 52; *see also Am. Mun. Power-Ohio v. Dayton Power & Light Co*., 67 FERC ¶ 61,373, at 62,273 (June 22, 1994) ("with respect to section 210, Congress expressly contemplated applications for interconnections with planned facilities").

apply under FPA Section 210 as a "qualifying small power producer."[107]

b. PGE and the Tribes are each an "electric utility."

PGE is subject to FPA Section 210 as an electric utility, and is indeed even a fully regulated public utility. As explained below, the Tribes are also an "electric utility" subject to FPA Section 210 because they "sell[] electric energy."[108]

Pursuant to their rights under the O&O Agreement, the Tribes appear to have consistently delivered their share of the Pelton-Round Butte Project's electric energy over the generator tie lines, including the Pelton-Round Butte 230 kV line, for sale to PGE at the Round Butte Substation.[109] PGE's 2023 FERC Form No. 1 reports that the Tribes, through Warm Springs Power Enterprises, sold 625,094 MWh to PGE in 2023 for $47,279,198, as well as $6,000,000 in demand charges.[110] The Tribes "sell[] electric energy"[111] and are thus subject to FPA Section 210 with respect to the transmission assets they co-own.

To be clear, the Tribes' status as a federally recognized Native American tribe with sovereign authority over its reservation does not affect their status as an electric utility under Section 210 (or a transmitting utility under Section 211). The law is well settled that federal statutes of general applicability, and the Federal Power Act in particular, apply to tribes

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107 16 U.S.C. § 824i(a)(1).

108 16 U.S.C. § 796(22).

109 *See* Exhibit 16, O&O Agreement at Art. 5 (entitling Tribes to sell their share of project output to PGE); *Id.* at Art. 5.1(a) ("The Tribes Allocation shall be delivered to PGE at the 230 kV bus in the Round Butte switchyard"); *id.* at Art. 5.8 ("The [Pelton Regulating Dam] Net Output shall be delivered to PGE at the 230 kV bus in the Round Butte switchyard."); Exhibit 15, Excerpt of PGE's 2023 Q4 FERC Form No. 1 (stating, "PGE has agreed to purchase 100% of the [the Tribes'] share of the project's output under a Power Purchase Agreement (PPA) through 2040.").

110 Exhibit 15, Excerpt of PGE's 2023 Q4 FERC Form No. 1 at Purchased Power (Account 555), lines 132-133.

111 16 U.S.C. § 796(22).

notwithstanding tribal governments' inherent sovereignty.[112] The Commission has thus applied the Federal Power Act's requirements to tribes,[113] including the Tribes here through their federal hydropower license.

And, as with federal agencies, tribes' exemption as public utilities under FPA Section 201(f) does not affect their status under FPA Sections 210 and 211. The Commission has ruled that tribes in general are not "public utilities," as defined in FPA Section 201(e), whose power marketing activities are regulated under the FPA, because they are analogous to federal agencies exempt under FPA Section 201(f).[114] The Tribes here obtained such an exemption order for Warm Springs Power Enterprises, which was described as an enterprise wholly owned by the Tribes for the purpose of managing its interests in the Pelton-Round Butte Project.[115] However, FPA Section 201(b)(2) makes clear that: "Notwithstanding section 201(f), the provisions of sections 210, 211, [and] 212 . . . shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions[.]."[116] Thus, entities exempt from regulation as public utilities under Section 201(f), including the Tribes, are still subject to Section 210 if they sell electric energy, as well as Section 211 if they meet the definition of "transmitting utility" (discussed below).[117] Similarly, granting an order under

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112 *See Escondido Mutual Water Co. v. La Jolla Band of Mission Indians*, 466 U.S. 765, 787-88 & n.30 (1984) (FPA applies to tribes)*; Fed. Power Comm'n v. Tuscarora Indian Nation*, 362 U.S. 99, 116-18 (1960) (same); *see also Donovan v. Coeur d' Alene Tribal Farm*, 751 F.2d 1113, 1115-18 (9th Cir. 1985) (Occupational Safety and Health Act); *Confederated Tribes of Warm Springs Reservation of Oregon v. Kurtz*, 691 F.2d 878, 880-83 (9th Cir. 1982), *cert. denied*, 460 U.S. 1040 (1983) (federal excise taxes); *Navajo Tribe v. NLRB*, 288 F.2d 162, 164-65 (D.C. Cir.), *cert. denied*, 366 U.S. 928 (1961) (National Labor Relations Act).

113 *See Eastern Band of Cherokee Indians*, 41 FERC ¶ 61,197 (Nov. 20, 1987) (holding that a tribe must obtain a license for a proposed hydroelectric project on the tribe's reservation).

114 *Confederated Tribes of the Warm Springs*, 93 FERC ¶ 61,182, at 61,598-61,599 (Nov. 21, 2000).

115 *Id*. at 61,598-61,599.

116 16 U.S.C. § 824(b)(2).

117 *See Western Area Power Admin*., 187 FERC ¶ 61,164, P 2 (June 12, 2024) (explaining that although not a public utility, "WAPA is, however, a transmitting utility subject to sections 210 through 213 of the FPA"); *New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and*

Sections 210 and/or 211 against a non-public utility does not convert that entity into a public utility.[118]

Notably, the Commission's order exempting Warm Springs Power Enterprises from regulation as a public utility expressly noted that the Tribes "will own certain transmission facilities" transferred to them by PGE, and it states that the order does not address whether the Tribes are a "transmitting utility" under Section 211.[119] This further confirms that because the Tribes meet the criteria to be subject to FPA Sections 210 and 211, they are subject to interconnection and transmission orders, to the full extent necessary to facilitate Madras Solar's interconnection.[120]

2. Section 210(c)(1)'s public interest test is met.

The Commission has consistently found that "[n]ew interconnections generally meet the public interest test by making transmission service available to new generators and, thus increasing the supply of electricity and improving competition."[121] That reasoning applies here because the

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Supporting Expanded Regulatory Responsibilities under the Energy Policy Act of 1992, and Conforming and Other Changes to Form No. FERC-714, Order No. 558-A, 65 FERC ¶ 61,324, at 62,451-62,455 (Dec. 9, 1993) (explaining the utilities that are exempt from regulation as public utilities are still subject to FPA Sections 210 and 211 to the extent they meet FPA's definitions of "electric utility" and "transmitting utility"); *see also THSI bn, LLC*, 185 FERC ¶ 61,032 at P 53 (proposed order directing Arizona Electric Power Cooperative ("AEPCO"), a non-public utility, to interconnect a proposed solar project and explaining, "AEPCO is an electric utility because it sells power from the Apache Generating Station.").

[118] *Alternative Transmission Inc*., 182 FERC ¶ 61,163, at PP 23-25.

[119] *Confederated Tribes of the Warm Springs*, 93 FERC ¶ 61,182, at 61,599 n. 9; *see also Hoopa Valley Tribe*, 174 FERC ¶ 61,102, P 23 (Feb. 18, 2021) ("Although we find Petitioners are exempt public utilities pursuant to section 201(f) of the FPA, they are not exempt from every provision of Part II of the FPA.").

[120] The Tribes asserted in response to Madras Solar's request for interconnection and/or transmission services that the Tribes are exempt from the FPA as an entity that sells less than 4,000,000 MWh of electric energy. Exhibit 13, Warm Springs Power and Water Enterprises' Letter Rejecting Madras Solar Interconnection and Transmission Services Request, dated June 24, 2024, at 1. However, the Tribes cited no legal authority for that proposition, and nothing in the FPA exempts entities selling less than 4,000,000 MWh of electric energy from orders under FPA Sections 210 or 211.

[121] *THSI bn, LLC*, 185 FERC ¶ 61,032, at P 56 (quoting *Kiowa Power Partners, LLC*, 99 FERC ¶ 61,251, P 36 (May 31, 2002)).

proposed interconnection would enable Madras Solar, a new generator, to interconnect and sell its net output under PURPA to PGE.

3. Under Section 210(c)(2), the interconnection would: (i) encourage conservation of energy or capital, (ii) optimize efficient use of facilities and resources, or (iii) improve reliability.

Only one of the three criteria in Section 210(c)(2) need be met, but here all three are met.[122] Indeed, in *City of Tacoma*, the Commission has ordered interconnection to a licensed hydropower project's transmission facilities over the licensee's objection after finding the proposal met "at least one of the three specified criteria."[123]

First, the interconnection will encourage conservation of capital by avoiding the need to build a duplicative, and likely more costly, 230 kV tie line several miles from the solar facility to PGE's Round Butte Substation. It will do so by using the pre-existing 230 kV hydropower tie line that passes near the proposed solar facility.

Second, for the same reason, the interconnection will optimize efficient use of facilities and resources. The proposed use of an existing generator tie line meets that standard by avoiding the need for a duplicative line, which would be "redundant and inefficient," and by allowing for use of existing capacity on the existing line, which will "optimize efficient use of the generator tie line."[124]

Third, the interconnection would improve reliability because PGE's interconnection studies incorporated into the QF-LGIA require extensive network upgrades, including a fixed series capacitor, that will provide a system benefit to PGE's transmission system far beyond the

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122 16 U.S.C. 824i(c)(2).

123 118 FERC ¶ 61,202 at P 24.

124 *Mt. Breeze Wind, LLC*, 170 FERC ¶ 61,228, P 14 (March 19, 2020); *see also THSI bn, LLC*, 185 FERC ¶ 61,032, P 57 (holding that avoiding duplicative facilities promotes efficiency); *City of Goose Creek*, 172 FERC ¶ 61,165, at PP 114-115 (same).

interconnection facilities.[125] As the Commission has consistently held, such network upgrades provide a system benefit to all users of the system.[126] Indeed, PGE has indicated that the fixed series capacitor is a contingent facility in another customer's interconnection agreement,[127] which necessarily means it will be a beneficial system expansion that will support future generation interconnection to the grid in this renewable resource rich area.

C. FPA Section 211's Requirements Are Met.

Section 211 provides that "any electric utility, Federal power marketing agency, or any other person generating electric energy for sale or resale" may apply to the Commission for an order requiring a "transmitting utility" to provide transmission services, including enlargement of facilities if necessary.[128] A Section 211 applicant must first make a good faith request for service to the transmitting utility, specifying details as to the requested transmission services at least 60 days before filing an application with the Commission.[129] As applicable here, the Commission may grant an application under section 211 if the application is in the public interest, will not unreasonably impair reliability, will not alter certain types of competitive relationships, and meets the requirements under section 212.[130] These criteria are met here.

1. Section 211 Jurisdiction Exists.

a. Madras Solar qualifies as an "electric utility."

As noted above, Madras Solar qualifies as an electric utility qualified to apply for

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125 *See Mt. Breeze Wind, LLC*, 170 FERC ¶ 61,228, P 15 (relying on transmission provider's system impact study to conclude no adverse impact to reliability).

126 *See Entergy Services, Inc. v. FERC*, 319 F3d 536, 543-44 (D.C. Cir. 2003) (affirming FERC's "long-held view of the benefits of expansion and the role of network system upgrades"); *Western Mass. Electric Co.*, 66 FERC ¶ 61,167, at 61,335 (Feb. 3, 1994) ("the addition represents a system expansion used by and benefitting all users due to the integrated nature of the grid.").

127 Exhibit 9, PGE's Letter Re LGIA Milestones, dated February 6, 2024, at 4.

128 16 U.S.C. § 824j(a).

129 16 U.S.C. § 824j(a); 18 C.F.R. § 2.20.

130 16 U.S.C. § 824j(a)-(c).

transmission services under FPA Section 211.[131]

b. PGE and the Tribes are each a "transmitting utility."

The FPA defines a "transmitting utility" as "an entity (including an entity described in section 201(f)) that owns, operates, or controls facilities used for the transmission of electric energy—(A) in interstate commerce; (B) for the sale of electric energy at wholesale."[132] As noted above, PGE is a public utility and thus also a "transmitting utility," and while the Tribes may not be a public utility, that does not affect their status as a "transmitting utility" subject to FPA Section 211.[133]

There is no question the Tribes "own" facilities used for transmission of electric energy in interstate commerce through their ownership share of the Pelton-Round Butte Project's generator tie lines.[134] Further, based on available evidence, the Tribes-owned transmission facilities are indeed "used . . . for the sale of electric energy at wholesale."[135] The available evidence demonstrates that the Tribes have themselves consistently sold their share of the Pelton-Round Butte Project's electric energy to PGE at the Round Butte Substation pursuant to the O&O Agreement and related power purchase agreements, and they apparently do so by delivering the energy over the co-owned transmission facilities—including the Pelton-Round Butte 230 kV line at issue.[136] PGE also likely uses the co-owned transmission facilities to transmit its share of the hydropower project's electric energy for purposes of wholesale sales. Thus, the Tribes-owned transmission facilities are used to sell electric energy at wholesale, and the Tribes are a "transmitting utility" subject to FPA Section 211.

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131 *See supra* Section V.B.1.a.
132 16 U.S.C. § 796(23).
133 *See supra* Section V.B.1.b.
134 16 U.S.C. § 796(23)(A).
135 16 U.S.C. § 796(23)(B).
136 *See supra* Section V.B.1.b.

2. Good Faith Request: Madras Solar made a good faith request for transmission services.

Madras Solar submitted its interconnection service request to PGE under PGE's interconnection process. Doing so was consistent with this Commission's guidance that a request to jointly owned facilities "should go to the Commission-jurisdictional co-owner, *who must then work with its non-jurisdictional co-owner to coordinate the study process*."[137] However, after it appeared the Tribes may believe a separate interconnection or transmission services agreement is necessary with them, Madras Solar also submitted a separate good faith request for interconnection and transmission services directly to the Tribes, which included all information specified in 18 C.F.R. § 2.20, over 60 days prior to filing this Section 211 application.[138]

3. Public Interest: The proposed transmission services are in the public interest.

The proposed transmission services, if necessary, are in the public interest for the same reason that the proposed interconnection is in the public interest. As with interconnection service, the Commission has consistently held that "the availability of transmission service enhances competition in power markets by increasing power supply options of buyers and sales options of sellers, and that this should result in lower costs to consumers."[139]

4. Reliability: The proposed transmission service will not unreasonably impair reliability.

Consistent with Section 211(b), Madras Solar's proposed interconnection and any necessary transmission services would not "unreasonably impair the continued reliability of electric systems affected[.]"[140] This is confirmed by PGE's interconnection studies that identified

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137 *See* Order No. 2003-A, 106 FERC ¶ 61,220 at P 755 (emphasis added).

138 Exhibit 12, Madras Solar's Letter and Good Faith Interconnection and Transmission Service Request to Tribes, dated June 7, 2024.

139 *THIS bn, LLC*, 185 FERC ¶ 61,032, at P 56 (quoting *Nev. Power Co.*, 110 FERC ¶ 61,029 at P 17).

140 16 U.S.C. § 824j(b).

all upgrades necessary to reliably interconnect the solar facility and ensure network resource transmission service could be supported after PGE takes title to the solar facility's net output.[141]

5. Effect on Contracts or Rate Schedules: Section 211(c) does not preclude transmission service.

Section 211(c) proscribes transmission service requiring the transmitting utility to deliver electric energy that "replaces any amount of electric energy" provided to the applicant.[142] Madras Solar does purchase any energy from PGE or the Tribes that would be displaced by the proposed transmission services, and thus this section is inapplicable.

D. Section 212: The Proposed Interconnection and, If Necessary, Transmission Services Will Comply with Section 212.

Madras Solar requests that the Commission issue a proposed order in this proceeding as soon as possible if it reaches the Section 210 and Section 211 issues. The proposed order would meet the requirements of Section 212(c)(1).[143] As discussed above (*supra* Section V.A.), Madras Solar respectfully requests the proposed order be based on the existing interconnection studies and PGE's FERC-jurisdictional OATT LGIA.

VI. Amendment of Hydropower License: The Commission Should Exercise Its Reserved Licensing Authority to Initiate Amendment of the Hydropower License.

Finally, regardless of whether the Commission determines Madras Solar's right to interconnect arises under its existing QF-LGIA or under FPA Sections 210 and 211, the

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141 *See Mt. Breeze Wind, LLC*, 170 FERC ¶ 61,228, P 15 (relying on transmission provider's system impact study to conclude no adverse impact to reliability); *see also* Exhibit 3, PGE's System Impact Re-Study, dated July 12, 2019, at 5 ("SIS includes powerflow, short circuit, transient stability, and voltage stability analysis in conformance with the PGE OATT."); *id.* at 19 ("The results of the power flow analysis, short circuit analysis, transient stability analysis, and the voltage stability analysis show that the Preliminary Plan of Service for NRIS meets all NERC and WECC requirements. Because no additional Network Upgrades have been identified as being necessary, the Preliminary Plan of Service for NRIS is recommended as the Proposed Plan of Service for NRIS.").

142 16 U.S.C § 824j(c).

143 16 U.S.C § 824k(c)(1).

Commission should provide notice of intent to amend the Pelton-Round Butte Project's license. Specifically, as it did in *City of Tacoma*,[144] the Commission should exercise reserved authority under the Pelton-Round Butte Project's license to initiate proceedings to amend the hydropower license to the extent necessary to allow Madras Solar's interconnection.

As explained above, the sole impediment to moving forward with construction of the interconnection is the Tribes' belief that they have a unilateral veto right over the interconnection by virtue of their rights as co-owner and co-licensee of the Pelton-Round Butte Project and PGE's related refusal to apply for amendment to the license absent the Tribes' consent. Notably, PGE has filed non-project use amendments "on behalf of" the non-project use proponent in the past, which is consistent with the Commission's policy that such amendments are technically filed on behalf of the non-project use proponent, not the licensee itself.[145] Nevertheless, PGE and the Tribes have clearly expressed that they will not do so in this case.

PGE and the Tribes' refusal to agree to an amendment of the hydropower license is premised on their mistaken belief that "FERC has no authority under the Federal Power Act to approve any such amendment of the Project License without the Tribes' consent[,]" due to FPA Section 6.[146] However, as explained below, Section 6 is not a bar to amendment of the Pelton-Round Butte Project's license to accommodate Madras Solar's interconnection for two independent reasons.

First, FPA Section 6 does not bar amendment of the license because the proposed interconnection will not be a substantial alteration of the license. FPA Section 6 provides that a license "may be altered . . . only upon mutual agreement between the licensee and the Commission

144 118 FERC ¶ 61,202 at PP 33-36.

145 *Portland Gen Elec*., 159 FERC ¶ 62,357, P 1 (June 29, 2017) (requesting non-project use for water in-take structure "[o]n behalf of the Oregon Department of Fish and Wildlife").

146 Exhibit 14, PGE's Letter, dated August 6, 2024, at 2 (citing 16 U.S.C. § 799).

after 30 days public notice."[147] However, as the D.C. Circuit has explained, "Section 6, like most other statutory provisions, must incorporate some common sense limits."[148] Otherwise, Section 6 could serve to "undermine, perhaps significantly, the FPA's broader objective[.]"[149] Section 6 "was not meant to be a bar to the licensing of new projects where they might minimally interfere with existing projects, lest the mere fact that a project exists prevent all other new project development."[150] Thus, the Commission has explained that "Section 6 of the FPA requires the consent of a licensee *only with respect to a substantial alteration of the license*."[151]

The determination of whether an alteration is "substantial" is made on a case-by-case basis considering the physical alterations to existing project works and the impacts on the operation of the project.[152] For example, the Commission found that no substantial alteration of a project's license would exist for installation of a penstock under the existing project's power canal where outages at the existing project could be coordinated during construction, and where there would be no interference with the existing project once constructed.[153] And in *City of Tacoma* the

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147 16 U.S.C. § 799.

148 *Pac. Gas & Elec. v. FERC*, 720 F.2d 78, 89 (D.C. Cir. 1983) (*hereafter* "*PG&E*").

149 *Id.*; *see also id.* at 90 (explaining, "Small encroachments on a license, comparable in their adverse impact to variations in conditions that investors might expect from other causes such as, for example, annual fluctuations in water supply, should be within FERC's authority to grant in implementing the design of Congress to promote, at the same time, development and stable investment incentives.").

150 *Central Nebraska Public Power & Irrigation District*, 52 FERC ¶ 61,339, at 62,348-62,349 (Sept. 27, 1990).

151 *Weber Basin Water Conservancy Dist*., 50 FERC ¶ 61,409, 62,263 (March 23, 1990) (emphasis added).

152 *LinkPast Sols., Inc.*, 188 FERC ¶ 61,056, P 11 (July 25, 2024).

153 *Weber Basin Water Conservancy Dist*., 50 FERC ¶ 61,409, 62,263 & n. 13; *see also Howard W. Blair*, 20 FERC ¶ 61,092, at 61,194 (July 23, 1982) (rejecting licensee's objection to proposed use of water from its licensed project's fish water release pipe that would not affect generation at the licensed project); *Fluid Energy Sys., Inc.*, 24 FERC ¶ 61,298, at 61,615 (Sept. 20, 1983), *reh'g denied*, 25 FERC ¶ 61,404 (Dec. 20, 1983) (no substantial alteration for tailwater encroachment that reduced the existing project's annual generating capacity by approximately 0.3%); *but see Niagara Mohawk Power Corp*., 29 FERC ¶ 61,005, at 61,010 (Oct. 2, 1984) (substantial alteration found for modifications to the existing project's headgate structure, dam abutment repairs, and construction of a powerhouse and penstock that would prevent all flows from entering existing project's plant during construction).

Commission has previously suggested that no substantial alteration of a license would occur in the case of reconfiguration to a licensed project's transmission facilities alone for purposes of accommodating an interconnection under FPA Section 210.[154] The reconfiguration of the hydropower project's transmission assets in *City of Tacoma* was significant—extending one licensed project's primary transmission line 7.5 miles to a new substation and interconnecting another licensed project's primary transmission line with a new primary transmission line extending 6.3 miles to a new substation.[155]

In this case, there is no substantial alteration of the license. Significantly, the proposed interconnection will cause no impact on use of the waterway or availability of water for the hydropower plant's power production or environmental compliance.[156] While the hydropower project's generator tie line and certain other transmission facilities will be reconfigured, the interconnection will be supported by network upgrades required by PGE to ensure Madras Solar's facility will be safely interconnected and designated as a network resource. Network resource interconnection service "requires the Transmission Provider to undertake the Interconnection Studies and Network Upgrades needed to integrate the Generating Facility into the Transmission System in a manner comparable to that in which the Transmission Provider integrates its own generators to serve native load customers."[157] The interconnection of a new network resource to grid is "comparable in [its] adverse impact to variations in conditions that investors [in a

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154 118 FERC ¶ 61,202, at PP 31-33 & nn. 18-19 ("In fact, it is not clear whether, or to what extent, implementation of the new interconnections would require alterations to the licenses.").

155 *Id.* at PP 2-7; *see also id.* at PP 37-47 (concluding the newly proposed transmission lines would be primary lines and thus part of the licenses).

156 Exhibit 1, Declaration of Erik Steube at ¶ 10.

157 Order No. 2003, 104 FERC ¶ 61,103, at P 754; *see also id.* at P 768 ("Network Resource Interconnection Service entitles the Generating Facility to be treated in the same manner as the Transmission Provider's own resources for purposes of assessing whether aggregate supply is sufficient to meet aggregate load within the Transmission Provider's Control Area").

hydropower project] might expect from other causes" even without the proposed license amendment associated with Madras Solar's interconnection—and thus is not a substantial alteration of the license.[158] In sum, Section 6's consent requirement is not implicated at all here.

Second, even if the Commission finds a substantial alteration, FPA Section 6 does not bar the Commission from ordering an interconnection under its reserved licensing authority, and the Commission should do so in this case. The Commission has previously addressed this same issue in *City of Tacoma*.[159] Just as here, *City of Tacoma* involved licensees that refused to allow interconnection to their project's licensed transmission facilities and thus forced the interconnection proponent to apply to the Commission for interconnection under FPA Section 210. The Commission first found that the proposed interconnection met Section 210's requirements, and then proceeded to reject the licensees' reliance on FPA Section 6.[160] The Commission explained, "even assuming . . . that the proposed interconnection would 'substantially' alter the Irrigation Districts' licensed project works, *FPA Section 6 does not provide the [licensees] with a unilateral veto over the interconnection*, as they contend."[161] That is because the Commission "includes standard conditions in its licenses that reserve the Commission's authority to require reasonable changes to the license after notice and opportunity for a hearing."[162] This "reservation of authority is a well-recognized means of obtaining the licensees' consent to modifications that may be necessary during the term of the license."[163]

Specifically, in *City of Tacoma*, the Commission invoked Standard License Articles 9 and 10, which provide:

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158 *PG&E*, 720 F.2d at 90.
159 118 FERC ¶ 61,202.
160 *Id*. at PP 24-36.
161 *Id*. at P 33 (emphasis added).
162 *Id*.
163 *Id*.

> *Article 9.* The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.
>
> *Article 10.* The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.[164]

Although "the Commission previously ha[d] not used these standard articles to order modifications to a project that would be necessary to implement an interconnection order issued under section 210," the Commission found that "the language of these articles is certainly broad enough to allow the Commission to do so."[165] The Commission then explained, "based on the section 210 findings this order makes, we preliminarily conclude that, in the interest of power, the licensees should coordinate electrically the transmission of their projects' power with the Cities' interconnection facilities."[166] Accordingly, the Commission issued an order requiring the interconnection under FPA Section 210 and provided notice to the licensees of intent to invoke the Commission's reserved authority under standard license Articles 9 and 10 "to the extent necessary to require the licensees to permit the interconnection."[167]

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164 *Id*. at P 34 (quoting, *Standardized Conditions for Inclusion in Preliminary Permits and Licenses Issued Under Part I of the Federal Power Act*, 54 FPC ¶ 1792, at Form L-2 (Oct. 31, 1975)).

165 *Id*. at P 35 (citing *Dept. of the Interior v. FERC,* 952 F.2d 538, 546-48 (D.C. Cir. 1992); *PG&E,* 720 F.2d at 83-84; *California v. Federal Power Commission,* 345 F.2d 917, 921-25 (9th Cir. 1965); *Cascade Power Company,* 74 FERC ¶ 61,240, at 61,822 (March 1, 1996); *Philadelphia Corporation v. Sandy Hollow Power Company,* 61 FERC ¶ 61,045 (Oct. 8, 1992)); *see also Dept. of the Interior,* 952 F.2d at 547 ("As contemplated by the plain language of the license clause, any party, including petitioners here, may petition FERC to enforce the license conditions or exercise its retained authority under the reopener clause.").

166 *City of Tacoma*, 118 FERC ¶ 61,202, at P 35.

167 *Id.* at P 1; *see also id.* at P 36 ("we hereby give notice, pursuant to standard Articles 9 and 10 of the licenses . . . of our preliminary conclusions, and we are affording an opportunity to comment on this proposed use of our reserved authority.").

As it did in *City of Tacoma*, the Commission should provide notice of intent to exercise its reserved authority to amend the Pelton-Round Butte Project's license to the extent necessary to permit Madras Solar's proposed interconnection. Like the license in *City of Tacoma*, the Pelton-Round Butte Project's license also incorporates Standard Articles 9 and 10.[168] Whether Madras Solar's rights to interconnect exist pursuant to the state-jurisdictional QF-LGIA or pursuant to an FPA Section 210 and/or Section 211 order the Commission issues here, neither the Tribes nor PGE have "a unilateral veto over the interconnection, as they contend."[169] The Commission's exercise of its reserved licensing authority is necessary here to reaffirm that hydropower licensees may not "unilaterally" deny open access to their licensed transmission facilities,[170] and that public utilities may not "partner" with non-public utilities to frustrate interconnection by competing generators, such as Madras Solar.[171]

VII. Request for Expedited Action

Madras Solar respectfully requests expedited action by the Commission. Expedited action is necessary because PGE's insistence that Madras Solar obtain the Tribes' consent and the Tribes' refusal to provide such consent has stalled development and now threatens the viability of the proposed solar facility. [**BEGIN CUI//PRIV]** [redacted]

168 *See* Relicensing Order, 111 FERC ¶ 61,450, at 62,928 (Ordering paragraph K, incorporating the "articles set forth in Form L-5, entitled 'Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters and Lands of the United States,' 54 FPC 1792, 1799 (October 1975)"); *see also Standardized Conditions for Inclusion in Preliminary Permits and Licenses Issued Under Part I of the Federal Power Act*, 54 FPC ¶ 1792, at Form L-5, Articles 9 & 10 (Oct. 31, 1975).

169 *City of Tacoma*, 118 FERC ¶ 61,202, at P 33.

170 *Id*. at PP 33 & 35.

171 *Nat'l Ass'n of Regulatory Util. Comm'rs*, 475 F.3d at 1281.

172 Exhibit 1, Declaration of Erik Stuebe, at ¶ 19.

[redacted] **[END CUI//PRIV]** PGE's letter dated February 6, 2024, asserts that Madras Solar has failed to meet the development milestones in the QF-LGIA.[174] Due to the delays and the need to resort to FERC for relief, Madras Solar provided PGE with notice of intent to suspend the QF-LGIA, as allowed by Article 5.16 of the QF-LGIA's plain terms, but PGE has not consented to the validity of Madras Solar's request to suspend the QF-LGIA.[175] **[BEGIN CUI//PRIV]** [redacted] **[END CUI//PRIV]**

Thus, Madras Solar respectfully requests that the Commission issue its order as soon as possible. Additionally, to the extent that the Commission orders any further negotiations of the interconnection terms or other issues, Madras Solar requests that the Commission order expedited timeframes for such negotiations.[176]

VIII. Request for Privileged Treatment of Information

Pursuant to 18 C.F.R. § 388.112, Madras Solar requests privileged treatment with respect to certain material included in this petition, application, and exhibits, and it accordingly is submitting public and non-public versions of the petition, application, and exhibits with information for which privileged treatment is requested. Section 388.112(b)(1) of the Commission's regulations provides that "[a] person requesting that material be treated as

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173 **[BEGIN CUI//PRIV]** [redacted] **[END CUI//PRIV]**

174 Exhibit 9, PGE's Letter Re LGIA Milestones, dated February 6, 2024.

175 Exhibit 1, Declaration of Erik Stuebe at ¶ 19.

176 *See City of Tacoma*, 118 FERC ¶ 61,202, at PP 5 & 28 (ordering shortened period to negotiate final interconnection terms of 30 days to accommodate deadlines in related agreement and necessary construction timelines).

privileged information must include in its filing a justification for such treatment." The information that has been redacted or excluded from the public version of the petition, application, and exhibits relates to the terms and conditions of the Madras Solar-PGE power purchase agreement, which is subject to a non-disclosure agreement and includes commercially sensitive and/or proprietary material that would be exempt from disclosure under the Freedom of Information Act.[177]

Section 388.112(b)(2)(i) of the Commission's regulations provides further that "[i]f a person files material as privileged material in a complaint proceeding or other proceeding to which a right to intervention exists, that person must include a proposed form of protective agreement with the filing." Accordingly, Madras Solar has included a proposed protective agreement ("Protective Agreement"), filed contemporaneously herewith. Madras Solar notes that the Protective Agreement is a version of the Commission's Model Protective Order, as adopted in Docket No. AD20-12, with the references to oil pipeline proceedings removed for purposes of this case.

Under the Protective Agreement, Madras Solar will provide the non-public version of this petition, application, and exhibits to eligible "Reviewing Representatives," of persons or entities that have filed a motion to intervene or a notice of intervention, three business days after receiving a written request that includes: (1) an executed Protective Agreement (to the extent not yet entered into by the requesting party), (2) executed non-disclosure certificates for each such Reviewing Representative and, (3) a copy of the motion to intervene or notice of intervention. Any non-public materials are to be marked "**CONTAINS PRIVILEGED INFORMATION**" and "**DO NOT RELEASE**."[178]

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177 5 U.S.C. § 552; 18 C.F.R. § 388.107(d).

178 18 C.F.R. § 388.112(b).

In addition, in accordance with the Commission's notice on labelling of non-public information, each page of the non-public version of this filing is marked "**CUI//PRIV**."[179]

IX. Conclusion

For the reasons set forth above, Madras Solar respectfully requests the Commission grant the relief as requested in the Introduction and Summary and take such other action necessary to enable Madras Solar's proposed interconnection.

Dated: September 4, 2024.

By: /s/ Gregory M. Adams
Gregory M. Adams
Richardson Adams, PLLC
515 North 27th Street
Boise, Idaho 83702
Telephone: 208-938-2236
Email: greg@richardsonadams.com

Attorney for Madras PV1, LLC

[179] *See Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*, 83 Fed. Reg. 28,631 (June 20, 2018).

PUBLIC VERSION

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the public version of the foregoing document, and its exhibits and attachments, to be served upon the following corporate officials listed on the Commission's website and other representatives of Portland General Electric Company, as well as the following representatives of the Confederated Tribes of the Warm Springs Reservation of Oregon, Warm Springs Power and Water Enterprises, and the Public Utility Commission of Oregon, as follows:

Via email:

Portland General Electric Company

James A. Ajello
Senior Vice President, Finance CFO,
Treasurer, & Corporate Compliance Officer
Portland General Electric Company
121 SW Salmon Street, 1WTC1715
Portland, OR 97204
jim.ajello@pgn.com

Nichole Lloyd
Analyst & FERC Compliance
Portland General Electric Company
121 SW Salmon St. 3WTC0407
Portland, OR 97204
Nichole.Lloyd@pgn.com

Donal J. Light
Senior Assistant General Counsel
Portland General Electric Company
1WTC0301
121 SW Salmon St
Portland OR 97204
donald.light@pgn.com

Confederated Tribes of the Warm Springs Reservation of Oregon and Warm Springs Power and Water Enterprises

Ellen H. Grover
Best Best & Krieger LLP
360 SW Bond St Ste 400
Bend OR 97702
ellen.grover@bbklaw.com

Public Utility Commission of Oregon

Stephanie S Andrus
Oregon Department of Justice
1162 Court St NE
Salem OR 97301
stephanie.andrus@doj.oregon.gov

PUBLIC VERSION

I further certify that I have this day caused the public version of the foregoing document, and its exhibits and attachments, to be served upon the individuals listed on the Commission's official service list for Docket No. P-2030, as follows:

Via email:

Aaron Ahern
ahernrealestate@gmail.com

Gary Benke
12610 NW 19th Ave.
Vancouver, WASHINGTON 98685
glbenke@comcast.net

Scott J. Carlon
Fish Biologist
NOAA
1201 NE Lloyd Blvd.
Suite 1100
Portland, OREGON 97232
scott.carlon@noaa.gov

Ritchie Graves
Fishery Biologist
NOAA National Marine Fisheries Service
1201 NE Lloyd Blvd
Suite 1100
Portland, OREGON 97232
Ritchie.Graves@noaa.gov

Christopher Fontecchio
Attorney-Advisor
NOAA General Counsel, Northwest
7600 Sand Point Way NE
Seattle, WASHINGTON 98115
chris.fontecchio@noaa.gov

Scott J. Carlon
Fish Biologist
NOAA National Marine Fisheries Service
1201 NE Lloyd Blvd.
Suite 1100
Portland, OREGON 97232
scott.carlon@noaa.gov

John Zauner
Hydropower Program Leader
Oregon Department of Fish & Wildlife
4034 FAIRVIEW INDUSTRIAL DR SE
SALEM, OREGON 97302
john.r.zauner@odfw.oregon.gov

Ben Campbell
East Region Hydropower Coordinator
Oregon Department of Fish and Wildlife
61374 Parrell rd
Bend, OREGON 97702
benjamin.a.campbell@odfw.oregon.gov

Mary Grainey
Hydroelectric Program Coordinator
Oregon Water Resources Department
725 SUMMER ST NE STE A
SALEM, OREGON 97301
Mary.s.grainey@water.oregon.gov

Richard George
Assistant General Counsel
Portland General Electric Company
121 SW Salmon Street
1WTC1301
Portland, OREGON 97204
richard.george@pgn.com

Arya Behbehani
Portland General Electric Company
121 SW Salmon Street, 3WTCBR05
Portland, OREGON 97204
Arya.Behbehani@pgn.com

PUBLIC VERSION

Scott Gardner
scott.gardner@pgn.com

Bob Hargis
Sr. Business Analyst
Portland General Electric Company
121 SW SALMON ST
PORTLAND, OREGON 97204
bob.hargis@pgn.com

Christopher Makuakane
Senior Civil Engineer
Portland General Electric Company
121 SW Salmon St.
3WTCBR03
Portland, OREGON 97204
chris.makuakane@pgn.com

David Hendrix
Chief Dam Safety Engineer
Portland General Electric Company
121 SW Salmon St
Portland, OREGON 97204
david.hendrix@pgn.com

Scott Jerger
Columbia Riverkeeper
621 SW Morrison St, Ste 1225
Portland, OREGON 97205
Scott@fieldjerger.com

Charles R Sensiba
Partner
Troutman Pepper Hamilton Sanders LLP
401 9th Street NW
Suite 1000
Washington, D.C 20004
charles.sensiba@troutman.com

Kristen Bonanno
Region 6 Energy Coordinator
USDA Forest Service
PO Box 3623
Portland, OREGON 97208-3623
kristen.bonanno@usda.gov

Via U.S.P.S. First Class Mail:

Dwight French
Oregon Department of Water Resources
725 Summer St NE
Salem, OREGON 97301-1266

Forest Supervisor
Mt. Hood National Forest
16400 Champion Way
Sandy, OREGON 97055-7248

Dated: September 4, 2024.

By: /s/ Gregory M. Adams
Gregory M. Adams
Richardson Adams, PLLC
515 North 27th Street
Boise, Idaho 83702
Telephone: 208-938-2236
Email: greg@richardsonadams.com

Attorney for Madras PV1, LLC

EXHIBIT 1

EXHIBIT 2

PGE-Tribes Ownership & Operation Agreement, dated Jan. 1, 2002

OWNERSHIP AND OPERATION AGREEMENT

FOR THE

PELTON AND ROUND BUTTE DAMS AND GENERATING FACILITIES

BY

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

AND

PORTLAND GENERAL ELECTRIC COMPANY

Dated as of January 1, 2002
12:15 a.m.

EXHIBIT 2

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EXHIBIT 2

Exhibit A	Operating Guidelines
Exhibit B:	Administrative and General Costs
Exhibit C:	Sample Calculations for Determination of Reconciliation Payments

EXHIBIT 2

This OWNERSHIP AND OPERATION AGREEMENT is dated as of January 1, 2002 12:15 a.m. (this "Agreement") and is by and between The Confederated Tribes of the Warm Springs Reservation of Oregon, a federally recognized Indian tribe having a Constitution and Bylaws and Corporate Charter adopted pursuant to the terms of the Indian Reorganization Act including its governing body the Tribal Council (the "Tribes"), and Portland General Electric Company, an Oregon corporation ("PGE"). (The Tribes and PGE are each referred to individually herein as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, the Tribes are a federally recognized Indian tribe organized under a constitution and bylaws ratified by the members of the Tribes on December 18, 1937, and approved by the Assistant Secretary of Interior of the United States on February 14, 1938, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378);

WHEREAS, the Tribes ratified on April 23, 1938 a corporate charter issued to them by Interior pursuant to Section 17 of such Act of June 18, 1934;

WHEREAS, pursuant to the foregoing authorities the Tribes exercise governmental and corporate powers over tribal lands within the boundaries of the Warm Springs Indian Reservation of Oregon (the "Tribal Lands") as such reservation is described in that certain Treaty between the United States of America and the Tribes and Bands of the Middle Oregon executed June 25, 1855 (12 Stat. 963);

WHEREAS, PGE is an electric utility engaged in generating, transmitting and distributing electric energy;

WHEREAS, the Tribes and PGE were parties to the 1955 Agreement pursuant to which (a) the Tribes granted PGE certain easements and rights necessary to the construction and operation of (i) the Pelton Dam and the Round Butte Dam and the generation and transmission facilities associated with such dams and (ii) the Pelton Reregulating Dam, and (b) (i) the compensation to be paid to the Tribes by PGE for such easements and rights was established and (ii) certain rights of the Tribes, including the right of the Tribes to construct, operate and maintain generation facilities in the Pelton Reregulating Dam were also established or affirmed;

WHEREAS, pursuant to the 1955 Agreement and Project License No. 2030 granted by the Federal Power Commission (now FERC), (a) PGE constructed, operates and maintains (i) the Pelton Dam and the Round Butte Dam and the generation and transmission facilities associated therewith and (ii) the Pelton Reregulating Dam, and (b) the Tribes constructed, operate and maintain the generation facilities in the Pelton Reregulating Dam;

WHEREAS, the Tribes and PGE entered into a Long-Term Global Settlement and Compensation Agreement, dated as of April 12, 2000, among themselves and Interior (the "Long-Term Global Settlement and Compensation Agreement") in order to establish their respective rights with respect to Project No. 2030 and their activities related thereto, including but not limited to all Compensation payable to the Tribes in connection therewith;

EXHIBIT 2

WHEREAS, pursuant to the Long-Term Global Settlement and Compensation Agreement the Tribes have purchased from PGE an Undivided 33.33% Interest in the Pelton and Round Butte Facilities;

WHEREAS, the Tribes and PGE desire to enter into a long-term agreement regarding the ownership and operation of the Project which helps them mutually achieve long-term economic benefits from the Project while addressing appropriately natural resources impacted by the Project;

WHEREAS, the Tribes and PGE desire that such ownership and operation agreement foster close working relationships and cooperation between them, and sound decision-making by them, relative to the Project; and

WHEREAS, entering into this Agreement is required by the terms of the Long-Term Global Settlement and Compensation Agreement.

NOW THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions.

(1) Unless otherwise defined in this Agreement, terms defined in the Long-Term Global Settlement and Compensation Agreement shall have the same meanings when used herein as in such agreement. As used in this Agreement, the following terms shall have the meanings specified in this Section 1.1:

(2) "Acquisition Loan" has the meaning set forth in Section 5.12.

(3) "Adjustment Amount" has the meaning assigned to that term in the Asset Purchase Agreement.

(4) "Agreement" has the meaning set forth in the introductory paragraph hereof.

(5) "Applicable Law" has the meaning set forth in the Long-Term Global Settlement and Compensation Agreement.

(6) "Capacity" means the rate at which electrical energy can be generated, expressed in megawatts (MW).

(7) "Capital Additions" means additions, improvements and betterments to the Project.

(8) "Cause" has the meaning set forth in Section 3.1(f)(ii).

EXHIBIT 2

(9) "Claimable Event" has the meaning set forth in the Long-Term Global Settlement and Compensation Agreement.

(10) "Claiming Party" has the meaning set forth in the definition of "Force Majeure."

(11) "Claims" has the meaning set forth in the Long-Term Global Settlement and Compensation Agreement.

(12) "Costs of Capital Additions" means those costs incurred or to be incurred to effect Capital Additions.

(13) "Costs of Operation" means all costs attributable to the operation and maintenance of the Project, including administrative and general costs determined pursuant to Exhibit B and repairs, renewals and replacements necessary to assure design capability and reliability or that are required by any Governmental Authority. Costs of Operation shall not include either taxes based upon the income of either of the Owners or property taxes that are assessed exclusively on the property interests of only one of the Owners.

(14) "Cove Agreements" means (a) the Cove Replacement Agreement between PGE and PacifiCorp, dated as of June 2, 1961, pursuant to which PGE compensates PacifiCorp for inundation of PacifiCorp's Cove Project by the construction of the Pelton and Round Butte Facilities, (b) the Agreement between the United States Department of the Interior (Bureau of Reclamation), Pacific Power & Light Company and PGE dated June 2, 1961 whereby the Bureau of Reclamation became a beneficiary of the alternative power arrangements made in the Cove Replacement Agreement of the same date, (c) the Agreement Concerning Interconnection and Power Exchange dated as of November 1, 1963 and as amended June 27, 1974, between PGE and PacifiCorp and (d) the Round Butte/Cove Interconnection and Operation Agreement between PGE and PacifiCorp dated July 8, 1993.

(15) "Covered Claims" has the meaning set forth in Section 3.1(e)(iv).

(16) "Effective Budget" has the meaning ascribed to it in Section 3.6(a).

(17) "Effective Date" has the meaning set forth in Section 9.1.

(18) "Elective Capital Additions" means additions, improvements and betterments to the Project that are not required to assure design capability or reliability or that are not required by any Governmental Authority.

(19) "Energy" means kilowatt-hours (kWh).

(20) "Estimated Purchase Price" has the meaning assigned to that term in the Asset Purchase Agreement.

(21) "Force Majeure" means an event not anticipated as of the Effective Date which is not within the reasonable control of the Party (or in the case of third party obligations or facilities, the third party) claiming suspension (the "Claiming Party"), and which by the exercise of due diligence the Claiming Party is unable to overcome in a commercially reasonable manner

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or obtain or cause to be obtained a commercially reasonable substitute performance therefor. Events of Force Majeure include, but are not restricted to: wrongful or negligent acts of the other Party; acts of God; fire, civil disturbance; labor dispute or labor shortages; strikes; sabotage; action or restraint by court order or Governmental Authority (so long as the Claiming Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such action or restraint); and inability after diligent application to obtain or maintain required permits, licenses, zoning or other required approvals from any Governmental Authority or other third-party Person whose consent is required as a condition to a Party's performance hereunder.

(22) "Governmental Authority" has the meaning set forth in the Long-Term Global Settlement and Compensation Agreement.

(23) "Implementation Effective Date" has the meaning set forth in Section 5.7.

(24) "Indemnified Owner" has the meaning set forth in Section 6.1(a).

(25) "Indemnifying Owner" has the meaning set forth in Section 6.1(a).

(26) "Index Value" has the meaning set forth in Section 5.4.

(27) "Long-Term Global Settlement and Compensation Agreement" has the meaning set forth in the recitals hereof.

(28) "Market Value" has the meaning set forth in Section 5.6.

(29) "Net Generating Capability" means the total amount of Energy which the Project is capable of generating, due allowance being made for legal, regulatory and physical constraints then existing, less the amount used in the production thereof.

(30) "Net Output" means the net amount of Capacity and Energy produced by the Project from time to time under the operating conditions then existing, including periods when some or all of the Project may be inoperable. "Net Output" is net of station use and after depletions required by the Original License or the New FERC License, as applicable, and other agreements and obligations from time-to-time, including obligations to supply Capacity and/or Energy pursuant to the Cove Agreements.

(31) "Off-Peak Hours" has the meaning set forth in Section 5.4.

(32) "Off-Peak Index Value" has the meaning set forth in Section 5.4.

(33) "On-Peak Hours" has the meaning set forth in Section 5.4.

(34) "On-Peak Index Value" has the meaning set forth in Section 5.4.

(35) "Operating Committee" means the committee established pursuant to Section 3.2(a).

(36) "Operating Guidelines" means the Operating Guidelines for the Project attached hereto as Exhibit A (as they may be modified from time to time by the Operating Committee).

(37) "Operating Trust Account" means the bank account established by the Operator to receive and disburse funds pursuant to this Agreement as more specifically provided in Section 3.3(a).

(38) "Operator" means the entity appointed pursuant to Section 3.1 to operate the Project.

(39) "Owners" means PGE and the Tribes and their permitted successors and assigns, and any other Person that becomes a holder of an Ownership Share, by operation of law or otherwise, pursuant to the terms of this Agreement, provided, that no such Person shall succeed to or acquire the rights provided to Owners under this Agreement unless and to the extent (a) the assignment or transfer pursuant to which it acquired its Ownership Share is valid under the terms of this Agreement and (b) it becomes a Party to this Agreement by execution of this Agreement or by a written agreement, acceptable to a majority of the holders of the Ownership Shares and the Operator, to be bound by all of the terms and conditions hereof.

(40) "Ownership Share" means the respective ownership interest of an Owner expressed as a decimal fraction as specified in Section 2.1 as such may be altered or adjusted pursuant to this Agreement. In all cases Ownership Share shall be computed to two decimal places.

(41) "Permitted Claims" has the meaning set forth in Section 3.8(d).

(42) "Person" has the meaning set forth in the Long-Term Global Settlement and Compensation Agreement.

(43) "PGE" has the meaning set forth in the introductory paragraph hereof.

(44) "PGE's Allocation" means the percentage of the Project Rights to which PGE is entitled from time to time, as set forth in Article IV.

(45) "Power Purchase and Sale Agreement No.02-03-A" has the meaning set forth in Section 5.11.

(46) "Power Purchase and Sale Agreements" means the Wholesale Power Purchase and Sale Agreement No. 02-03-A and the Wholesale Power Purchase and Sale Agreement No. 02-06-A attached as Exhibit C hereto.

(47) "PRD Implementation Effective Date" has the meaning set forth in Section 5.9.

(48) "PRD Net Output" has the meaning set forth in Section 5.8.

(49) "Proceedings" has the meaning set forth in the Long-Term Global Settlement and Compensation Agreement.

(50) "Project" means the "Pelton and Round Butte Facilities", as defined in the Long-Term Global Settlement and Compensation Agreement.

(51) "Project Rights" means generator capability, pondage, reservoir elevation limits, inflows, minimum discharge, generator availability, reserves, load following, spill and all other capability derived from the Project (specifically including capability which may not be considered a "product" as of the Effective Date of this Agreement). "Project Rights" are net of station use and after depletions required by the Original License or the New FERC License, as applicable, and other agreements and obligations from time-to-time, including obligations to supply Capacity and/or Energy pursuant to the Cove Agreements.

(52) "Prudent Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry prior to the action in question or any of the practices, methods and acts, which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Utility Practice shall apply not only to functional parts of the Project, but also to appropriate structures, landscaping, painting, signs, lighting and other facilities and public relations programs reasonably designed to promote public enjoyment, understanding and acceptance of the Project. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts. Prudent Utility Practice shall also include those practices, methods and acts that are required by Applicable Law and final orders or regulations of Governmental Authorities having jurisdiction.

(53) "Purchase Price" has the meaning assigned to that term in the Asset Purchase Agreement.

(54) "Reserve Account" has the meaning set forth in Section 5.14.

(55) "Right of First Refusal" has the meaning set forth in Section 12.2.

(56) "Scheduling Day" means those days on which the majority of the power market participants in the geographic area of the Western Systems Coordinating Council (as such geographic area is defined as of the Effective Date) schedule Energy, Capacity and other products for future deliveries. (With limited exceptions, as of January 1, 2001 such Scheduling Days are all days except Saturdays, Sundays and holidays).

(57) "Taxes" means any or all ad valorem, property, occupation, severance, generation, first use, conservation, Btu or energy, transmission, utility gross receipts, privilege, sales, use, consumption, excise, lease, transaction and other taxes or governmental charges, licenses, fees, permits and assessments or increases therein, other than taxes based upon net income or net worth.

(58) "Term" means the term of this Agreement as defined in Section 9.1.

(59) "Tribal Lands" has the meaning set forth in the recitals hereof.

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(60) "Tribes" has the meaning set forth in the introductory paragraph hereof.

(61) "Tribes' Allocation" means the percentage of the Project Rights to which the Tribes are entitled from time to time, determined as set forth in Article IV.

(62) "Tribes As Third Party" means the Tribes in their status not as an Owner, but rather as a third party otherwise independent of the Project. For example, the Tribes would be a third party relative to their status as the owner of the lumber mill in Warm Springs, but would not be a third party relative to their status as an Owner of an undivided interest in the Project.

(63) "Tribes' Ownership Costs" means all of the actual, out-of-pocket costs incurred by the Tribes relating to the Project which would be recognized by FERC were the Tribes required to maintain accounts in accordance with the Uniform System of Accounts. Such costs shall include all costs arising from the ownership, operation and maintenance of the Project and the depreciation component of renewals and replacements for which the Tribes are required to reimburse PGE pursuant to this Agreement. Such costs shall include debt service, return or and of equity capital contributed by the Tribes using the same amortization schedule and rate of return as those related to debt service, the costs of renewals and replacements, FERC fees, payments in lieu of Taxes, insurance and reasonable administrative costs incurred directly by the Tribes. Tribes' Ownership Costs shall also include all the prorations identified in Section 3.6(a) of the Asset Purchase Agreement.

(64) "Uniform System of Accounts" means the Uniform System of Accounts prescribed by FERC for electric utilities and hydroelectric licensees as in effect from time to time.

1.2 Interpretations.

In this Agreement, unless clear contrary intention appears: (a) the singular number includes the plural number and vice versa; (b) reference to any person includes such person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity; (c) reference to any gender includes each other gender; (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (e) reference to any Article, Section, Schedule or Exhibit means such Article, Section, Schedule or Exhibit to this Agreement, and references in any Article, Section, Schedule, Exhibit or definition to any clause means such clause of such Article, Section, Schedule, Exhibit or definition; (f) "hereunder", "hereof", "hereto", "herein" and words of similar import are reference to this Agreement as a whole and not to any particular Section or other provision hereof; (g) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including"; (h) "including" (and with correlative meaning "include") means including without limiting the generality of any description proceeding such term; and (i) reference to any law (including statutes and ordinances) means such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder.

ARTICLE II
OWNERSHIP

2.1 Initial Ownership.

Subject to the terms and conditions set forth in this Agreement, the Tribes and PGE shall own the Project as tenants in common with each owning undivided interests in the following percentages:

Tribes	33.33%
PGE	66.67%

Each Owner's undivided interest from time to time is referred to herein as its "Ownership Share".

2.2 Options of the Tribes to Increase Ownership Share.

On the terms and subject to the conditions set forth in Section 5.6 of the Long-Term Global Settlement and Compensation Agreement, the Parties recognize that the Tribes have the options to increase their Ownership Share through purchases of the Undivided 16.66% Interest and the Undivided .02% Interest.

2.3 Changes in Ownership Share.

The Ownership Shares are subject to change on account of damage to the Project as provided in Section 8.1 below. Any such changes in an Owner's Ownership Share shall take place pursuant to the terms and conditions of this Agreement and without any further act, except such regulatory approval(s) as may be required.

2.4 Miscellaneous Ownership Rights and Obligations.

Each Owner shall promptly and with all due diligence take all necessary action in aid of obtaining all regulatory approvals, licenses and permits necessary to carry out its obligations under this Agreement.

(a) Each Owner shall, from time-to-time on request, execute deeds, bills of sale and whatever other documents that may be necessary in addition to this Agreement to evidence title.

(b) The Owners expressly waive any right of partition of the Project, whether by partition in kind or sale and division of the proceeds thereof, until the end of the Project as described in Section 8.2.

(c) Nothing in this Agreement shall create a partnership, joint venture, association or, except as provided in Section 3.3, a trust. Each Owner shall severally bear its Ownership Share of all obligations and liabilities of the Project as they arise. No Party shall have a right or power to bind any other Party without its written consent, except as provided in this Agreement. IN THEIR RELATIONS WITH EACH OTHER UNDER THIS

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AGREEMENT, THE OWNERS SHALL NOT BE CONSIDERED FIDUCIARIES OR TO HAVE ESTABLISHED A CONFIDENTIAL RELATIONSHIP, BUT RATHER SHALL BE FREE TO ACT ON AN ARM'S LENGTH BASIS IN ACCORDANCE WITH THEIR OWN RESPECTIVE SELF-INTEREST, SUBJECT, HOWEVER, TO THE OBLIGATIONS OF THE OWNERS TO ACT IN GOOD FAITH IN THEIR DEALINGS WITH EACH OTHER WITH RESPECT TO ACTIVITIES HEREUNDER.

(d) Each Owner and its designees shall have the right to go upon and into the Project at any time, subject to the necessity of efficient and safe construction and operation of the Project, but the Operator alone shall have possession and control of the Project for and on behalf of all of the Owners.

2.5 Round Butte Switching Station 230 kV Main Bus.

(a) The Tribes shall have the right, without Operating Committee approval, to install a 230kV line position in the Round Butte switching station, to connect such line position to the Round Butte Switching Station 230kV Main and Auxiliary Bus and to operate such line position. Design and operation of such line position shall be in accordance with Prudent Utility Practice and all applicable standards of the Operator, and the Tribes shall obtain the Operator's approval for the design and protection scheme for the line position. PGE shall have no right to use such line position and shall not be required to pay for any of the costs thereof. The Tribes shall compensate PGE equitably for any costs and losses incurred by PGE in connection with the installation of the line position and the connection of such line position to the Round Butte Switching Station 230kV Main and Auxiliary Bus.

(b) PGE shall have the right, without Operating Committee approval, to modify the Round Butte Switching Station 230kV Main Bus to increase the capacity of such bus. Design of such modifications to achieve the capacity increase shall be in accordance with Prudent Utility Practice and all applicable standards of the Operator, and PGE shall obtain the Operator's approval for the design and protection scheme for the modifications. The Tribes shall not have the right to participate in, or utilize, the increase in capacity and shall not be required to pay for any of the costs thereof. The Tribes shall modify the line position described in Section 2.5(a) above if necessary to accommodate the modifications to achieve the capacity increase. PGE shall compensate the Tribes equitably for any costs (including costs related to any necessary modification of the Tribes' line position, both at the time of the capacity increase and thereafter) and losses incurred by the Tribes in connection with any modification of the Round Butte Switching Station 230kV Main Bus to increase the capacity of such bus.

ARTICLE III
OPERATION

3.1 Operator.

(a) Appointment of PGE as Operator. In order to provide unified management of the Project, each Owner authorizes and designates PGE alone as operator (the "Operator") to operate and maintain the Project under the terms of this Agreement; provided that

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PGE shall not be deemed to have the status or responsibility of an independent consultant, contractor or engineer.

(b) Rights and Duties of the Operator. The Operator, as agent for and on behalf of the Owners, shall, in accordance with Prudent Utility Practice, this Agreement, the Operating Guidelines, any manufacturer's warranty requirements and all Applicable Laws, orders, permits and licenses, now or hereafter in effect:

(i) operate and maintain the Project;

(ii) represent the Owners with Governmental Authorities on all Project matters within the scope of the Operator's responsibilities hereunder;

(iii) take any and all actions necessary or appropriate to comply with such Applicable Laws, orders, permits and licenses, now or hereafter in effect;

(iv) hire all Project personnel; and

(v) pay all Costs of Operation.

Subject to the foregoing, the Operator shall operate and maintain the Project so as to produce, where practicable and consistent with Prudent Utility Practice and the terms of this Agreement, the amounts of Energy which may be scheduled by the Owners as provided herein. The Operator is hereby granted and shall have the rights and powers to do everything necessary, proper and customary, in the ordinary course of business, to fulfill its obligations and effectuate its role as Operator, including the power to enter into contracts with third parties for and in behalf of the Owners, the power to make and receive payments, the power to initiate, compromise or settle claims with third parties, the power to act as agent in its own name and the power to appoint subagents. The Operator shall negotiate any contracts entered into with unions and set wage scales for nonunion personnel.

(c) Licensing. The Operator shall, in consultation with the Operating Committee, diligently pursue whatever action is necessary or appropriate to obtain and maintain all FERC, Oregon and general licenses, permits and other rights and regulatory approvals necessary to operation of the Project for itself and in behalf of the Owners. The Owners acknowledge that there is no assurance that such permits, licenses and approvals will be retained or obtained.

(d) Communications by Operator to Owners. The Operator shall inform each of the Owners of all material matters necessary to enable all the Owners to participate meaningfully in decision-making related to the Project. The Operator shall provide such information reasonably in advance of any actions or decisions to be made by the Operating Committee, subject to the circumstances thereof. The Operator shall accommodate to the extent reasonably possible reasonable requests for additional information and reasonable requests to discuss matters with the Tribal Council and other representatives of the Tribes.

The Operator shall present to each of the Owners a written report describing any event related to the Project which (x) involved a failure to operate the Project in accordance with

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Prudent Utility Practice, this Agreement or the Operating Guidelines or (y) resulted in, or created a significant risk of, either serious injury to a Project employee or member of the public; serious damage to fish, wildlife or other environmental interests; or material economic injury to an Owner. The Operator shall also discuss with the Operating Committee any measures it proposes to prevent or mitigate any similar events in the future. No failure to provide such a report shall by itself either be an event of default or prejudice the Operator's status as the Operator if the Operator's actions were not in bad faith.

(e) Limitations on Compensation and Liability of Operator; Limited Indemnification by Operator. The Tribes acknowledge that were PGE or any other entity to be exposed to significant potential liability to the Tribes arising from the role of Operator, PGE or such other entity would insist upon being adequately compensated by the Tribes for accepting such risk. PGE is willing to perform the role of Operator without compensation other than reimbursement of its expenses and costs, including overhead, as provided in Section 3.4, provided PGE's liability to the Tribes arising or resulting from its role as Operator is substantially limited both with respect to the kind and amount of damages to which it might be exposed. As provided in this Section 3.1(e), the Tribes and PGE intend to limit substantially PGE's potential liability arising from PGE's role as Operator, purchase insurance to mitigate some risks, allocate some risks to the Owners collectively as Costs of Operation and allocate other risks to the Owners individually. To achieve a fair balance of cost and risk allocation, the Owners agree as follows.

(i) The Tribes and PGE agree that PGE shall act without compensation in its role as the Operator of the Project other than reimbursement of its expenses and costs, including overhead, as provided in Section 3.4.

(ii) The Tribes acknowledge therefore that, under the terms of this Agreement, PGE is not being compensated, as would be an independent provider of operating services, for any risk that it would be liable to the Tribes for any failure of its performance to satisfy any contractual or tort standard.

(iii) In behalf of the Tribes and PGE as Owners, PGE as Operator shall procure and maintain the insurance coverage described in Section 11.1 related to Project property and equipment in the same manner as the Operator insures its other owned and operated like facilities.

(iv) PGE as Operator shall procure and maintain the insurance coverage described in Section 11.2 related to workers' compensation, general liability and automobile liability in the amounts specified in Section 11.2. To the extent, and only to the extent, any claims, demands, losses, liabilities, and expenses (including reasonable attorneys' fees) are covered by the insurance obtained pursuant to Section 11.2, both with respect to scope of coverage and dollar limits of coverage (collectively, "Covered Claims"), PGE as Operator agrees to indemnify and hold harmless the Tribes from and against all such Covered Claims.

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(v) To the extent not covered by the insurance described in Sections 11.1 and 11.2, the Tribes hereby waive any and all Claims whether in contract, warranty, tort (including PGE negligence), strict liability or otherwise, against PGE, its employees, officers, agents or Affiliates related to the role of Operator with respect to all risks of physical damage to property and equipment part of or in any way related to the Project, worker's compensation, general liability for personal and bodily injury and property damage (including damages to the property of the Tribes As Third Party), automobile liability and all other risks described in Sections 11.1 and 11.2.

(vi) The following amounts shall be treated as Costs of Operation and therefore shared by the Owners in accordance with their Ownership Shares:

(A) Any self-insurance or deductible amounts for damages otherwise covered under any of the policies described in Sections 11.1 and 11.2;

(B) Any amounts for damages otherwise covered under any of the policies described in Sections 11.1 and 11.2 that are in excess of the policy limits;

(C) Any amounts for risks not covered by the policy described in Section 11.1;

(D) Damages paid to third parties other than the Tribes As Third Party, including on account of risks not covered by the insurance in subsection (iv) above or excluded by that insurance, as provided in Section 3.8(c) below; and

(E) Damages paid to the Tribes As Third Party, as provided in Section 3.8(d) below.

(vii) The Tribes and PGE agree that they shall separately and individually bear the risks of non-operation and reduced operation of the Project and that they shall separately and individually make determinations whether they desire to procure insurance to cover risks related to special, incidental, exemplary or consequential damages including, but not limited to, loss of profits or revenue, loss of use of the Project or any associated equipment, cost of capital, cost of purchased power, cost of substitute equipment, facilities or services, downtime costs, or Claims of customers of Tribes for such damages and such Claims from Tribes' customers. None of the foregoing damages shall be treated as Costs of Operation.

(viii) In the event any of the foregoing provisions of this Section 3.1(e) with respect to limitations on PGE's potential liability arising from the role of Operator are held unenforceable in whole or in part for any reason, THE TRIBES AGREE THAT IN NO EVENT SHALL PGE, ITS EMPLOYEES, OFFICERS, AGENTS OR AFFILIATES BE LIABLE TO THE TRIBES WITH RESPECT

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TO PUBLIC LIABILITY FOR PERSONAL AND BODILY INJURY AND PROPERTY DAMAGE, ALL RISKS OF PHYSICAL DAMAGE TO PROPERTY AND EQUIPMENT THAT IS PART OF THE PROJECT, WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY AND ALL OTHER RISKS COVERED BY THE INSURANCE DESCRIBED IN SECTIONS 11.1 AND 11.2, DURING ANY PERIOD OF TWELVE (12) CONSECUTIVE MONTHS FOR AN AMOUNT IN EXCESS OF THE AGGREGATE PAYMENTS PGE HAS RECEIVED FROM THE TRIBES UNDER THIS AGREEMENT DURING SUCH TWELVE (12) MONTH PERIOD AS REIMBURSEMENT ON ACCOUNT OF PGE'S LABOR AND OTHER INTERNAL COSTS, INCLUDING OVERHEAD, INCURRED AS OPERATOR OF THE PROJECT.

(ix) Consistent with the agreements expressed in paragraphs (i) and (vii) of this Section 3.1(e) and the acknowledgment expressed in Section 3.1(e) above, THE TRIBES AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON CONTRACT LAW, IN NO EVENT SHALL PGE FROM ITS ROLE AS OPERATOR BE LIABLE TO THE TRIBES HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO REPLACEMENT POWER COSTS), INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED. This Section 3.1(e)(ix) shall not apply to Covered Claims for which PGE has indemnified the Tribes pursuant to Section 3.1(e)(iv) and to Claims by the Tribes As Third Party brought against the Project, as opposed to PGE in its role as Operator.

(x) Consistent with the agreements expressed in paragraphs (i) and (vii) of this Section 3.1(e) and the acknowledgment expressed in Section 3.1(e) above, THE TRIBES AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON TORT LAW, IN NO EVENT SHALL PGE FROM ITS ROLE AS OPERATOR BE LIABLE TO THE TRIBES HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO REPLACEMENT POWER COSTS), INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM A PARTY'S SOLE, JOINT OR CURRENT NEGLIGENCE, GROSS NEGLIGENCE OR RECKLESS CONDUCT. This Section 3.1(e)(x) shall not apply to Covered Claims for which PGE has indemnified the Tribes pursuant to Section 3.1(e)(iv) and to Claims by the Tribes As Third Party brought against the Project, as opposed to PGE in its role as Operator.

(xi) To the extent the foregoing limitations of liability and exclusions of damages described in paragraphs (ix) and (x) of this Section 3.1(e) are for any

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reason determined to be ineffective by a court of competent jurisdiction, the Parties stipulate that the calculation of damages for those claims which survive the limitations and exclusions specifically set forth in paragraphs (ix) and (x) shall be no greater than $500,000 per Claim.

(f) Replacement of Operator. The Operator may be replaced only as provided in this Section 3.1(f).

(i) The Operator may be replaced without cause by majority vote of total Ownership Shares; provided that no replacement of an Operator without "Cause"(as defined below) shall become effective earlier than four (4) years from the date of such vote unless the existing Operator consents to an earlier date. No proposal to replace the Operator without Cause may be submitted to arbitration pursuant to this Section 3.1(f) or otherwise, and the vote of the Operating Committee shall be final, conclusive and binding on the Owners for all purposes.

(ii) Any Party may propose to the Operating Committee that the Operator be replaced for "Cause." "Cause" for this purpose means the existence of all three of the following conditions:

(A) The Operator has failed on at least three (3) occasions within the immediately preceding five year period to operate the Project in accordance with Prudent Utility Practice, this Agreement or directions of the Operating Committee;

(B) At least three (3) of the events referred to in Section 3.1(f)(ii)(A) have resulted in, or created a significant risk of, either serious injury to a Project employee or member of the public; serious damage to fish, wildlife or other environmental interests; or material economic injury to an Owner; and

(C) The Operator has failed to present to the Operating Committee a plan that provides reasonable assurance that the Operator will in the future operate the Project in accordance with Prudent Utility Practice, this Agreement and directions of the Operating Committee.

Replacement of the Operator for Cause shall require (x) "Cause", as defined above, and (y) a vote of members of the Operating Committee representing at least 65% of the total Ownership Shares. Any Owner may submit the result of such vote to arbitration utilizing the procedures specified in Section 3.2(g) below; provided, however, the arbitrator may approve the proposal to remove the Operator for Cause if, and only if, the arbitrator issues a written decision including findings of fact that all of the elements of Cause set forth above were established by clear and convincing evidence.

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(iii) If the Operator is replaced, whether or not for Cause, it shall be entitled to be reimbursed as Costs of Operation the reasonable costs it incurs as a result of such replacement (e.g., employee severance costs).

(iv) The Operator may resign its duties as Operator at any time; provided that no such resignation shall become effective earlier than one (1) year from the date of notice thereof to all the Owners unless all the Owners consent to an earlier date. If the Operator resigns it shall not be entitled to reimbursement of the costs it incurs as a result of such resignation.

(v) In the event the Operator is replaced or resigns pursuant to this Section 3.1(f), the Operating Committee shall select a new Operator and enter into a contract with such new Operator by vote of seventy-five per cent (75%) of the Ownership Shares; provided, however, that the Operating Committee may only select as the new Operator an Affiliate of an Owner by a unanimous vote of the Ownership Shares. Any Owner that disapproves any such selection may submit the selection to arbitration utilizing the procedures specified in Section 3.2(g) below. The arbitrator shall approve the selection unless the arbitrator issues a written decision including findings of fact that one or more of the following conditions has been established by clear and convincing evidence:

(A) The proposed Operator lacks reasonable experience in the operation and maintenance of hydroelectric generating stations;

(B) The proposed Operator has a record of serious failures to operate other hydroelectric generating stations in accordance with Prudent Utility Practice; or

(C) The proposed Operator has a history of dishonesty, willful misconduct or serious violations of environmental laws or regulations which provides a strong basis to conclude that the Operator will not operate the Project in accordance with Prudent Utility Practice, this Agreement or directions of the Operating Committee.

(vi) An existing Operator that is an Owner may only assign its role as Operator to an entity to which such Owner transfers all of its Ownership Shares. Any Owner that objects to such assignment of the Operator role may, within thirty (30) days' of the date of such notice, submit such assignment of the Operator role to arbitration utilizing the procedures specified in Section 3.2(g) below. The arbitrator shall approve the assignment unless the arbitrator issues a written decision including findings of fact that one or more of the following conditions has been established by clear and convincing evidence:

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(A) The proposed Operator lacks reasonable experience in the operation and maintenance of hydroelectric generating stations;

(B) The proposed Operator has a record of serious failures to operate other hydroelectric generating stations in accordance with Prudent Utility Practice; or

(C) The proposed Operator has a history of dishonesty, willful misconduct or serious violations of environmental laws or regulations which provides a strong basis to conclude that the Operator will not operate the Project in accordance with Prudent Utility Practice, this Agreement or directions of the Operating Committee.

(vii) Any determination by the arbitrator to prohibit the assignment of the role of Operator shall not adversely affect any otherwise valid assignment of the Ownership Share of the Owner that is also the Operator if such latter assignment is valid pursuant to Section 12.1; provided, however, that the assignee of such Ownership Share shall then not be entitled to propose that it become the new Operator. If the arbitrator determines consistent with Section 3.1(f)(vi) to prohibit the assignment of the role of Operator and the Owner that is also the Operator nevertheless consummates the assignment of its Ownership Share, then the Operator shall offer to the Owners to continue to perform as Operator under the terms and conditions of this Agreement for a period of no greater than one year from the date of such arbitrator's decision. Any acceptance of such offer shall be by majority vote of the Ownership Shares of all Owners not assigning their shares.

(viii) The Parties acknowledge that if a new Operator is installed other than as a result of assignment of PGE's role as Operator that it will likely be necessary to negotiate and execute a contract with such new Operator which includes provisions for compensation and risk allocation that could be significantly different than those provided for in this Ownership and Operation Agreement. The Owners agree that in the event the Owners enter into such a contract with a new Operator, then all provisions in this Agreement related to the compensation of the Operator and limitations on the liability of the Operator shall thereafter be void relative to the new Operator.

(g) Ratification of PGE's Prior Acts. The Tribes hereby ratify and approve all contracts entered into by PGE and all actions taken by PGE with respect to the Project which were entered into or taken by PGE prior to the Effective Date of this Agreement, including the Long-Term Global Settlement and Compensation Agreement.

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3.2 Operating Committee and Operating Decisions.

(a) Establishment of Operating Committee. The Tribes and PGE hereby establish an "Operating Committee" to facilitate effective cooperation, interchange of information, economical operation and efficient management of the Project and addressing appropriately natural resources impacted by the Project, on a prudent and orderly basis. The Operating Committee shall be responsible for ensuring that the Owners maintain an adequate level of communication among all parts of the Owners' organizations, both internally and with each other, in order that potential issues or problems may be identified and addressed at an early stage.

(b) Composition of Operating Committee. The Operating Committee shall consist of one member representing each of the Owners. The Owners shall endeavor to appoint to the Operating Committee individuals who (i) will promote cooperation, good working relationships, sound decision-making and achievement of long-term economic benefits from the Project while addressing appropriately natural resources impacted by the Project and (ii) have the technical and fiscal skills necessary to optimize the benefits of the Project; provided, however, the Parties agree they shall not be entitled to challenge the qualifications of any individual, or another Owner's appointment of any individual, either pursuant to Section 3.2(g), Section 7.3 or otherwise. At the time of the execution of this Agreement, the Tribes shall appoint one representative to the Operating Committee and PGE shall appoint one representative. Thereafter, the Owners shall be entitled to appoint replacement representatives to the Operating Committee. The Tribes shall also designate one person with natural resource management responsibilities, and shall request the United States Department of the Interior to also designate such a person, to serve as points of contact with the Operating Committee relative to Project natural resource issues. These persons shall attend Operating Committee meetings if requested by the Operating Committee.

(c) Operating Committee Meetings. The Operating Committee shall meet at such times as may be agreed or upon three (3) days' written notice by any member, and shall keep written minutes of its meetings. The Operating Committee shall also accommodate any reasonable requests for a meeting with the natural resource points of contact described in Section 3.2(b). Each member of the Operating Committee shall have the right to vote the Ownership Share of the Owner appointing such member. Any action which may be taken at a meeting of the Operating Committee may be taken without a meeting by individual action taken in writing by members of the Operating Committee.

(d) Matters to Be Approved by Operating Committee. The Owners may and, where this Agreement requires it the Operator shall, submit matters (including, without limitation, estimates and schedules) relating to operation of the Project to the Operating Committee for approval.

(i) Each of the following matters shall be submitted to the Operating Committee for approval by unanimous vote of the Ownership Shares:

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(A) Proposals for Elective Capital Additions costing in excess of $500,000 and for which all Owners are to contribute to the costs thereof;

(B) Determinations related to allocation of Project Rights required pursuant to Section 4.1(b); and

(C) Proposals to appoint as Operator an Affiliate of one of the Owners.

(ii) Proposals for the selection of a new Operator pursuant to Section 3.1(f)(v) and to enter into a contract with such new Operator shall require approval of Operating Committee members representing at least 75% of the Ownership Shares.

(iii) Proposals for the replacement of the Operator for Cause pursuant to Section 3.1(f)(ii) shall require approval of Operating Committee members representing at least 65% of the Ownership Shares.

(iv) Each of the following matters shall be submitted to the Operating Committee for approval by majority vote of the Ownership Shares:

(A) Any proposal made by Operating Committee members appointed by an Owner that is not the Operator;

(B) Budgets for Costs of Operation and Costs of Capital Additions and changes therein as provided in Section 3.4;

(C) Awards of any contract, approval of any change order, or payment of any controverted Claim, in excess of $1,000,000;

(D) Estimates of cost of repair or damage to the Project if in excess of $2,000,000, recommendation whether to repair in whole or part or to remove from service, and budget for repair of the Project; and

(E) Proposals to replace the Operator without Cause pursuant to Section 3.1(f)(i).

(e) Efforts to Achieve Consensus. The Owners shall make reasonable efforts to achieve consensus on matters to be submitted to the Operating Committee for approval. Each Owner shall act in good faith to accommodate reasonable requests from other Owners to discuss such matters prior to a vote by the Operating Committee. In addition, subject to Section 2.4, each Owner shall give due consideration to the views of the other Owner(s) prior to casting its vote on Operating Committee matters.

(f) Voting. The member of the Operating Committee representing a Party shall vote that Party's Ownership Share on any matter to be decided by the Operating Committee. Except as otherwise provided in Section 3.2(d), decisions of the Operating Committee shall be by majority vote of the Ownership Shares. In the case of a tie vote, the Operator shall cast the tie-breaking vote. Matters not disapproved by a member of the Operating Committee within the time after submission specified in the submittal, which shall not be less than specified in this Agreement (or if no time is specified in this Agreement, then within seven (7) calendar days) shall be deemed approved by such member. No member of the Operating Committee shall disapprove (i) matters which were submitted to the committee pursuant to the terms of this Agreement and not disapproved within the time allowed, (ii) items found by the arbitrator to have been consistent with Prudent Utility Practice, (iii) items where costs will be or were borne by the Operator individually, or (iv) items, other than Elective Capital Additions, with a cost less than $1,000,000.

(g) Arbitration. The Owners hereby agree to arbitrate, pursuant to the procedures established by this Section 3.2(g), matters (i) specified in this Agreement to be submitted to arbitration pursuant to this Section 3.2(g) and (ii) required to be submitted to the Operating Committee for approval, but which have been disapproved by such committee; provided that any proposal to replace the Operator without Cause pursuant to Section 3.1(f)(i) may not be submitted to arbitration pursuant to this Section 3.2(g). With respect to all matters disapproved by the Operating Committee, each member that, within the specified time, disapproved an item shall, at the time of such disapproval, state in writing its reasons and what alternative is acceptable. Items not so identified shall be deemed approved. The Owners shall submit all such disapproved matters to arbitration in Portland, Oregon under the Commercial Arbitration Rules of the American Arbitration Association. The Parties agree that any such matter shall be submitted to one arbitrator selected by the American Arbitration Association from its panel of arbitrators. If a matter involves replacement of the Operator or prohibition of assignment of the role of Operator, the arbitrator shall follow the process specified in Sections 3.1(f)(ii) and 3.1(f)(vi), respectively. If a matter involves an issue other than replacement of the Operator or prohibition of assignment of the role of Operator, the arbitrator shall follow the process specified in paragraphs (A) through (E), below.

(A) The arbitrator shall first consider the action or response proposed by the Operator. In doing so, the arbitrator shall consider all written arguments and factual materials which have been submitted to it by any member of the Operating Committee within ten (10) days following its appointment, and as promptly as possible after the expiration of such period make a written determination as to whether the action or response proposed by the Operator would or would not have been consistent with Prudent Utility Practice.

(B) Matters or items proposed by the Operator and found by the arbitrator to be consistent with Prudent Utility Practice shall become immediately effective. If, and only if, the arbitrator determines that the matter or item proposed by

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the Operator was not consistent with Prudent Utility Practice, then and only then shall it consider actions or responses proposed by Owners. If the arbitrator determines the matter or item proposed by the Operator to be inconsistent with Prudent Utility Practice and the action or response proposed by an Owner to be consistent with Prudent Utility Practice, the action or response found by the arbitrator to be consistent with Prudent Utility Practice shall become immediately effective. If, and only if, the arbitrator determines the actions or responses proposed by both the Operator and any Owners to be inconsistent with Prudent Utility Practice, the arbitrator shall be authorized to modify the action or response to conform to what would, under the circumstances, have met such test. Such action or response, as modified, shall become effective only if the Operating Committee agrees in accordance with the required percentage vote.

(C) If the arbitrator determines that the item referred to it was consistent with Prudent Utility Practice or determines in a matter involving a potential replacement of the Operator that the Operator should not be replaced, the cost of employing the arbitrator and the related expenses of its determination shall be borne by the Owner(s) whose members on the Operating Committee disapproved such item or proposed the replacement of the Operator, as the case may be, in proportion to their Ownership Shares. For all matters other than those involving replacement of the Operator, the cost of employing the arbitrator and the related expenses of its determination shall be a Cost of Operation if the arbitrator determines that the item referred to it was not consistent with Prudent Utility Practice. If a matter involves replacement of the Operator or a prohibition of assignment of the role of Operator, and the arbitrator determines that the Operator should be replaced or that the assignment of the role of Operator should be prohibited, then the cost of employing the arbitrator and the related expenses of its determination shall be borne by the Owner that is also the Operator.

(D) The Operator shall have the right, but not any duty, to proceed with an item prior to the time allowed under Section 3.2(f) or which has been disapproved by a member of the Operating Committee; provided if the determination made by the arbitrator is that the item was not consistent with Prudent Utility Practice, then the Owner that is the Operator shall individually bear the net increase in Costs of

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Operation of such action to the extent it was inconsistent with what the arbitrator determined would, under such circumstances, have met such test.

(E) The arbitrator shall not have authority to award exemplary or punitive damages, nor damages contrary to the terms of this Agreement. The Parties further agree that they will faithfully observe this Agreement and the rules, and that they will abide by and perform any award rendered by the arbitrator and that a judgment of a court having jurisdiction may be entered upon the award; provided the award may be challenged and modified in whole or part or denied enforcement in whole or part, but only on the basis that the award exceeded the scope of the arbitrator's authority under this Agreement or the Federal Arbitration Act.

(h) Annual Meeting of Senior Representatives. PGE and the Tribes recognize that maintaining good lines of communication between their senior representatives is important to the long-term success of the Project and this Agreement and commit to establishing these lines of communication and keeping them open. Accordingly, upon the request of either Owner, senior representatives of each Owner shall meet annually upon thirty (30) days' written notice to discuss any and all matters related to the Project.

(i) Annual Report to the Tribal Membership. In recognition of the special importance of the Project to the Tribal membership, the Operating Committee shall annually present for distribution to all members of the Tribes a brief report in appropriate form regarding the Project.

3.3 Operating Trust Account and Payment of Costs of Operation.

(a) Within thirty (30) days after the Effective Date or such earlier time as the Operating Committee shall agree, PGE shall establish a trust account ("Operating Trust Account") in a bank located in the State of Oregon and having qualifications meeting all requirements imposed upon depositories for any of the Owners. Each Owner shall promptly deposit in such account its Ownership Share of a working cash fund of $200,000, or such other amount as the Operating Committee shall determine. All monies received by Operator of the Project on account of the Project shall be deposited in the Operating Trust Account, and the Operator shall withdraw and apply funds as necessary.

(b) No later than the last Business Day prior to the first and fifteenth day of each month, each Owner shall deposit in the Operating Trust Account one-half (1/2) of such Owner's Ownership Share of the amount budgeted for that month in the Effective Budget adjusted for deviations between budget and actual expenses; provided that when a revised Operating Budget becomes effective during a month, each Owner shall immediately deposit in the Operating Trust Account such Owner's Ownership Share of any increase effectuated by the revised Operating Budget for that month.

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3.4 Reimbursement for Advances.

The Operator shall be reimbursed from the Operating Trust Account for (i) all Costs of Operation and all Costs of Capital Additions advanced by it hereunder, and (ii) administrative and general costs determined pursuant to Exhibit B. Such administrative and general costs shall be paid from the Operating Trust Account in equal monthly installments on the payment date nearest the middle of each month.

3.5 Taxes.

Each Owner shall pay individually property taxes that are assessed exclusively on the property interests of only one of the Owners. If any Taxes are paid or incurred by the Project as a whole or by the Operator on behalf of the Project as a whole, each Owner shall pay its applicable portion of the Taxes associated with its undivided interest in the Project. Each Owner shall use reasonable efforts to administer this Agreement and implement the provisions hereof in accordance with the intent to minimize Taxes.

3.6 Operations and Capital Additions Budgets.

(a) On or before each November 1, the Operator shall submit to the Operating Committee a budget of the Costs of Operation and Costs of Capital Additions, for each month for the next succeeding calendar year. Each budget shall be supported by detail adequate for the purposes of each Operating Committee member and shall show, among other things, staffing allocation, Operator services and calculations of administrative and general expenses. Such budget shall become effective unless disapproved within thirty (30) days after submittal. (The approved budget is referred to herein as the "Effective Budget").

(b) The Effective Budget shall be changed:

(i) to include costs occasioned by an emergency,

(ii) to provide for repairs, renewals, replacements or additions necessary to achieve design Capacity and Energy capability, or

(iii) to provide for an expenditure required by Governmental Authority or an expenditure otherwise required by this Agreement. Promptly after the occurrence of any of the above events, and promptly after the occurrence of other circumstances requiring the expenditure of funds not contemplated in the Effective Budget, the Operator shall submit a revised budget to the Operating Committee. Costs incurred by the Operator in the exercise of Prudent Utility Practice prior to the time a revised budget becomes effective shall be added as incurred to the amounts due under the budget. The revised budget shall become effective unless disapproved within seven (7) days after submittal.

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3.7 Accounting.

(a) The Operator shall keep separate, complete and accurate account of all deposits in and withdrawals from the Operating Trust Account and complete and accurate account of all costs incurred for which it is reimbursed from such account.

(b) All accounts shall be kept so as to permit conversion to the system of accounts prescribed for electric utilities by FERC. The manner in which accounts are kept pursuant to this Agreement is not intended to be determinative of the manner in which they are treated in the books of account of the Owners.

(c) Each Owner shall have the right at any reasonable time (i) to examine the separate books of account kept by the Operator pursuant to this section and all supporting data, (ii) to examine the books of account and all supporting data and documents relating to amounts for which any Owner is to be reimbursed and (iii) to examine and copy all plans, specifications, bids and contracts relating to the Project.

(d) The Operator shall, by the 15th of each month, supply to each Party a complete itemized account of all deposits in and withdrawals from the trust account during the previous month, together with adequate details of property retirements, removal costs and salvage, and together with an itemization of the basis for reimbursement made to the Operator from such account during each month. The Operator shall cause the Project's costs to be audited by independent certified public accountants of national reputation acceptable to all the Owners at approximately annual intervals and when such accounts are closed. Copies of such audits shall be supplied to each Owner.

(e) Any contract with any consultant or contractor of Operator providing for reimbursement of costs or expenses of any kind shall require the keeping and maintenance of books, records, documents and other evidence pertaining to the costs and expenses incurred or claimed under such contract to the extent, and in such detail, as will properly reflect all costs related to this Agreement and shall require such books, records, documents and evidence to be made available to the Owners at all reasonable times for review and audit for a period of three (3) years after final settlement of the applicable contracts.

3.8 Certain Costs and Claims Treated as Costs of Operation.

(a) Unless specifically provided otherwise in this Ownership and Operation Agreement or in the Long-Term Global Settlement and Compensation Agreement, all costs borne by PGE pursuant to the Long-Term Global Settlement and Compensation Agreement shall constitute Costs of Operation hereunder and shall be shared by the Owners in accordance with their Ownership Shares.

(b) Costs borne by PGE pursuant to the Long-Term Global Settlement and Compensation Agreement that relate to the Transmission Facilities shall not constitute Costs of Operation.

(c) Any and all Claims of Persons who are not Owners arising from or related in any way to the Project, which Claims are not the subject of an indemnity by one of the Owners

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as provided in Article VI, shall, to the extent they are not covered by insurance maintained for the Project pursuant to Section 11.2, constitute Costs of Operation hereunder, whether such Claims were incurred prior to or after the Effective Date of this Agreement.

(d) The Tribes As Third Party shall have the right to bring Claims against the Project (but not against PGE as Operator) to the extent such Claims relate to the status of Tribes As Third Party and either or both (i) relate to harm to the Tribes' Treaty Reserved Rights incurred after the Effective Date of the Global Settlement and Compensation Agreement or (ii)(x) arise from a Claimable Event and (y) are not waived or proscribed by the Global Settlement and Compensation Agreement (Claims meeting the criteria in "(i)" or "(ii)"are hereinafter referred to as "Permitted Claims"). The provisions of this Section 3.8(d) shall apply notwithstanding the waiver contained in Section 3.1(e)(v) relating to Claims against PGE in its role as Operator. Damages paid to the Tribes As Third Party arising from any Permitted Claims against the Project shall be treated as Costs of Operation and therefore shared by the Owners in accordance with their Ownership Shares to the extent such losses are not covered by insurance maintained by the Operator pursuant to Section 11.2. In the event the Tribes As Third Party bring any Permitted Claim only against PGE and not the Project, then any damages paid by PGE to the Tribes As Third Party shall also be treated as Costs of Operation and therefore be shared by the Owners in accordance with their Ownership Shares.

3.9 Elective Capital Additions.

At any time a Party determines that a Capital Addition which is not necessary to assure design capability or is not required by any Governmental Authority, is otherwise required or useful, the Party shall prepare a cost estimate, including an appropriate allocation of administrative and general costs of the Operator, of such Elective Capital Addition, and if the Owners agree, the Operator shall proceed with construction and installation, the costs to be shared by the Owners in their Ownership Share, unless otherwise agreed to at the time. However, if all Owners do not agree to pursue the Elective Capital Addition, then the Operator alone or any other Owner alone or together with any other Owner may have such Elective Capital Addition made at its own expense, provided that such addition does not diminish the Ownership Share or increase the costs of the other Owners.

ARTICLE IV
ALLOCATION OF PROJECT RIGHTS; SCHEDULING

4.1 Allocation of Project Rights.

(a) Each Owner shall be entitled to receive as scheduled all or any part of its Ownership Share of Project Rights on a daily basis; provided that to the extent any Project Right is constrained, such Owner's rights under this Agreement shall be correspondingly limited for the same period of time. (Such entitlements of the Tribes and PGE are hereinafter referred to as the "Tribes' Allocation" and "PGE's Allocation", respectively.).

(b) Allocation of available Energy for any day shall be determined by multiplying the average daily discharge from the Pelton Reregulating Dam times the combined Pelton and Round Butte water to kWh conversion factor times twenty-four (24) hours times

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Ownership Share. Such average daily discharge from the Pelton Reregulating Dam shall be determined by the Operator, who shall attempt to ensure maximum economic benefits to the Owners consistent with Project compliance with, as applicable, the Original License, the New FERC License, the Operating Guidelines, Project permits, Applicable Law, Prudent Utility Practice and safety. In recognition of the fact one or both of the Owners may choose to schedule their Project Rights in a manner other than that which would provide the maximum Energy generated by the Project from time to time, the Operating Committee shall develop guidelines to mitigate the impacts of one Owner's daily scheduling of Project Rights on the ability of the other Owner to obtain maximum Energy output from the Project for the day. Allocation of Project Rights other than Energy shall be pro rata by Ownership Share.

4.2 Scheduling Project Rights.

Each Owner shall schedule its Project Rights in strict accordance with the Operating Guidelines. Subject to such Operating Guidelines, Project Rights shall be scheduled as follows:

(a) The Operator shall submit to each Owner, no later than 8:30 a.m. Pacific time of each Scheduling Day, the average hourly discharge and any unusual operating constraint for the next Scheduling Day and any day that precedes the next Scheduling Day. Each Owner shall, by 10:00 a.m. of each Scheduling Day, inform the Operator's energy scheduler of its desired schedule of Project Rights for the next Scheduling Day and any day that precedes the next Scheduling Day. Each Owner, however, will have the right to change its schedule on shorter notice to reflect changes in its requirements, provided any such change does not cause a conflict with the submitted schedule of any other Owner, the Original License, the New FERC License, Project permits, the Operating Guidelines, Applicable Law, Prudent Utility Practice or safety in the Operator's reasonable discretion. The Operator shall also submit to each Owner each Scheduling Day an estimate of average daily flow pertaining to the six days immediately following the day for which average hourly discharge was submitted for scheduling purposes.

(b) Subject to the Operating Guidelines, the Owners may schedule any or all of their allocation of Project Rights for any day or any hour. An Owner shall not, however, schedule in excess of its Ownership Share of the estimated available Project Rights for any hour or any day, regardless of whether other Owners are scheduling their Ownership Share of the estimated available Project Rights for such time period.

(c) Each Owner shall be responsible for satisfying their own reserve obligations for firm Energy scheduled into the Pacific Northwest power grid consistent with requirements specified by the Western Systems Coordinating Council, or its successor.

(d) If either Owner believes that, consistent with the guidelines developed by the Operating Committee pursuant to Section 4.1(b), it has not for any given day been able to schedule its full Project Rights due to the manner in which the other Owner has scheduled its Project Rights, then the former Owner shall orally notify the latter Owner of such belief within twenty-four (24) hours of the occurrence. Any Claims for which such oral notice has not been given in such period shall be waived. To the extent possible, the Owners shall resolve any disagreement regarding such Claim immediately and to provide compensation in the form of

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additional output from the Project as provided in the guidelines developed pursuant to Section 4.1(b).

(e) To the extent that Project reservoir levels or operating conditions not recognized in the daily schedule necessitate either prescribed minimum or prescribed maximum generation limits, the Owners shall share such limits as follows. If fulfilling the requested schedules of the Owners would require operation of the Project at an operating level above the maximum prescribed, the Owners whose schedules are less than or equal to the Ownership Share to which they are entitled of such prescribed maximum generation will receive such schedules and each of the other Owners shall reduce their schedules as necessary to bring the Project down to its prescribed maximum generation level. Such reduction shall be in proportion to the amount by which each Owner's desired schedule exceeds its Ownership Share of the prescribed maximum generation. If fulfilling the requested schedules of the Owners would require operation of the Project at an operating level below the minimum prescribed, the Owners whose schedules are greater than or equal to the Ownership Share to which they are entitled of such prescribed minimum generation will receive such schedules and each of the other Owners shall schedule and take, in addition to its desired schedule, a portion of the additional generation required to bring the Project up to its prescribed minimum generation level. Such portion shall be in proportion to the amount by which each Owner's desired schedule falls short of its Ownership Share of the prescribed minimum generation.

(f) The Operator shall schedule Project outages and notify the other Owners as far in advance as is reasonable under the circumstances. The Owners recognize that pre-scheduled major outages of the Project may result in differing impacts on the Owners. Accordingly, such major outages will be scheduled in an attempt to equalize the burdens on the Owners. If the Operating Committee does not disapprove such outage within five (5) days, the Project shall be shut down in accordance with such schedule. Notwithstanding the foregoing, the Operator may shut the Project down to avoid hazard to any Person or property, including the Project.

(g) When testing of Project facilities requires generation, each Owner shall make provision for acceptance of its Ownership Share of such generation. The Operator will notify the Owners of test schedules as far in advance as is reasonable under the circumstances. Each Owner shall also be responsible from providing its Ownership Share of Project station use.

(h) Except as modified by the provisions of Section 4.2 (e) above, during any hour in which the Project does not generate its station use and losses, the Operator's dispatcher shall notify the Owners and each Owner shall arrange for delivery of its Ownership Share of such Energy to the Project.

(i) Except as otherwise incorporated by reference in Article V, the provisions of this Article IV shall not apply to the Tribes for any period during which the Tribes have sold to PGE the Tribes' Allocation and the Tribes' rights to schedule Project Rights pursuant to Article V below.

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ARTICLE V
USE OF THE TRIBES' ALLOCATION AND RIGHTS TO SCHEDULE PROJECT RIGHTS; SALE OF REREGULATING DAM NET OUTPUT TO PGE

5.1 Sale of the Tribes' Allocation and the Tribes' Rights to schedule Project Rights.

Unless (a) the Tribes have provided timely notice to PGE as provided in Section 5.7below of the Tribes' election not to sell the Tribes' Allocation to PGE, and (b) the Implementation Effective Date for such option as provided in such Section 5.7 has occurred, the Tribes shall sell to PGE, and PGE shall purchase and acquire from the Tribes, one hundred percent (100%) of the Tribes' Allocation and the Tribes' rights to schedule Project Rights, pursuant to the provisions of Sections 5.2 through 5.6 below. The Tribes' Allocation shall be delivered to PGE at the 230 kV bus in the Round Butte switchyard.

5.2 Price.

PGE shall purchase the Tribes' Allocation at prices determined by reference to an index of the Market Value (as defined in Section 5.6 below) of the Energy purchased.

5.3 Taxes.

The price paid by PGE as provided herein for the purchase of the Tribes' Allocation shall include full reimbursement for, and the Tribes are liable for and shall pay, or cause to be paid, or reimburse PGE if PGE has paid, all Taxes applicable to each such purchase and levied against the seller of the Energy or the owner of the generating facility. If PGE is required to remit such Tax, the amount shall be deducted from any amounts due the Tribes. The Tribes shall indemnify, defend and hold harmless PGE from any Claims on account of such Taxes.

5.4 Determination of Index Value to be Used to Calculate Market Value.

The Market Values of Energy purchased by PGE from the Tribes shall be determined by reference to published indices reflecting the market price of firm electricity for each hour during which PGE took delivery of Energy derived from the Tribes' Allocation. Except as otherwise provided in this Section 5.4 below, the market price shall be based upon the weighted average of the daily settlement prices listed under the Dow Jones Mid-Columbia Electricity Price Index as published by Dow Jones Telerate (Telerate page 38424) in dollars per megawatt hour ("Index Value") for Firm Power transactions at the Mid-Columbia trading hub, for On-Peak Hours or Off-Peak Hours, as the case may be. (Such index values are hereinafter referred to as the "On-Peak Index Value" and "Off-Peak Index Value", respectively). "On-Peak Hours" and "Off-Peak Hours" shall be as defined from time to time for the Dow Jones Mid-Columbia Electricity Index by Dow Jones Telerate.

(a) In the event Dow Jones Telerate does not publish calculations of Index Value at the Mid-Columbia trading hub for a period less than or equal to five (5) days, then the Index Values shall be determined for such period by averaging the Index Value for the period just prior and the period just after the period for which a calculation was not published. To determine the On-Peak Index Value in such circumstances, the index value for the On-Peak Hours immediately prior and immediately subsequent shall be averaged. To determine the Off-

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Peak Index Value in such circumstances, the index value for the Off-Peak Hours immediately prior and immediately subsequent shall be averaged.

(b) In the event Dow Jones Telerate does not publish calculations of Index Value at the Mid-Columbia trading hub for a period greater than five (5) consecutive days, then the Index Values shall be determined for such period by reference to the weighted average index for such days for the Mid-Columbia trading hub as published in Megawatt Daily by McGraw-Hill.

(c) In the event Dow Jones Telerate commences publication of Index Values for the Mid-Columbia which reflect the market price of firm electricity at that location for periods more discrete than On-Peak Hours and Off-Peak Hours (e.g. Dow Jones Telerate commences publication of hourly market prices), then Index Values shall be determined by reference to the published values for such more discrete time periods.

(d) In the event Index Values cannot be determined pursuant to the foregoing provisions of this Section 5.4, then PGE and the Tribes shall negotiate in good faith to select that substitute index which best reflects the daily market price of firm electricity in the Pacific Northwest region. If PGE and the Tribes do not agree on a substitute index, then either Party may submit the matter to arbitration using the procedures specified in Section 7.3(d) below.

5.5 Determination of Timing of PGE Purchases from the Tribes.

The timing of PGE's purchases from the Tribes shall be determined by reference to a pre-schedule submitted by Tribes. On each Scheduling Day, PGE shall provide the Tribes an estimate of the average hourly discharge and estimated Energy from the Project as provided in Section 4.2, and the Tribes shall provide by the time specified in Section 4.2 of each Scheduling Day the percentage of the Tribes' Allocation of Energy the Tribes will hypothetically take during each hour of each of the days being scheduled (it being understood that such amounts shall total 100% for each day, the Energy cannot be spread across more than one day and the limitations imposed by Sections 4.2(b) and 4.2(c) shall be applicable to such hypothetical scheduling). Such percentages shall be consistent with the submitted schedule of any other Party, the Original License, if applicable, the New FERC License if applicable, the Operating Guidelines, Project permits, Applicable Law, Prudent Utility Practice and safety, and all other provisions of Section 4.2. Once a pre-schedule is submitted pursuant to this Section 5.6, the Tribes shall not be permitted to alter it. PGE shall be deemed to have purchased from the Tribes in any hour the product of (i) the Tribes' Allocation, (ii) the percentage value properly prescheduled for that hour by the Tribes and (iii) the actual Energy of the Project for that day. For example, if the actual Energy from the Project for a Monday is equal to 3,600 megawatt hours, the Tribes properly specified 10% of its allocation to be pre-scheduled for a given hour and the Tribes Ownership Share at that time is 33.33%, then PGE shall be deemed to have purchased 119.99 megawatt hours of Energy from the Tribes for such hour.

5.6 Determination of Market Value by Application of Index Values to PGE Purchases from The Tribes.

PGE shall calculate for each hour of each day the product of the amount of its purchases (determined pursuant to Section 5.5) and the Off-Peak Index Value or On-Peak Index Value (determined pursuant to Section 5.4), as the case may be, for the subject hour. (The sum of such products for all hours of a calendar year is hereinafter referred to as the "Market Value"). PGE shall maintain such calculations for review by the Tribes at all reasonable times and shall submit by the last day of each month a report showing the calculations of Market Value for each hour of the previous month.

5.7 Election of Tribes Not to Sell Tribes' Allocation to PGE.

By notice delivered to PGE no later than April 1 of any calendar year, the Tribes shall have the one-time right to elect for the next subsequent calendar year, and all future calendar years, to take and schedule the Tribes' Allocation and use, sell or otherwise dispose of it as the Tribes may determine, rather than sell it to PGE pursuant to Sections 5.1 through 5.6 above. Such election by the Tribes shall be implemented effective on January 1 of the first calendar year after a complying notice has been given by the Tribes to PGE ("Implementation Effective Date"). On and after the Implementation Effective Date, the Tribes shall schedule their rights to receive Project Rights pursuant to Article IV above. Notwithstanding the foregoing, the Tribes' one-time election provided for in this Section shall not be effective for any calendar year during which the Acquisition Loan is outstanding or any Power Purchase and Sale Agreement remains in effect.

5.8 Sale by the Tribes to PGE of Pelton Reregulating Dam Net Output.

Unless (a) the Tribes have provided timely notice to PGE as provided in Section 5.9below of the Tribes' election not to sell the net output of the generating facilities in the Pelton Reregulating Dam ("PRD Net Output") to PGE, and (b) the effective date for such option as provided in such Section 5.13 has occurred, the Tribes shall sell to PGE, and PGE shall purchase and acquire from the Tribes, one hundred percent (100%) of the PRD Net Output and the Tribes' rights to schedule such PRD Net Output. The PRD Net Output shall be delivered to PGE at the 230 kV bus in the Round Butte switchyard. PGE shall purchase the PRD Net Output at prices determined by reference to the index of the Market Value (as defined in Section 5.6 above) of the Energy purchased. The provisions of Sections 5.3, 5.4, and 5.6 shall apply to these sales. Payment for the Energy delivered shall be made within the first fifteen days following the calendar month during which the Energy was delivered.

5.9 Election of Tribes Not to Sell PRD Net Output to PGE.

By notice delivered to PGE no later than April 1 of any calendar year, the Tribes shall have the one-time right to elect for the next subsequent calendar year, and all future calendar years, to take and schedule the PRD Net Output and use, sell or otherwise dispose of it as the Tribes may determine, rather than sell it to PGE pursuant to Sections 5.8 above. Such election by the Tribes shall be implemented effective on January 1 of the first calendar year after a complying notice has been given by the Tribes to PGE ("PRD Implementation Effective Date").

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In the event the Tribes exercise the option provided for in Section 5.7 not to sell Tribes' Allocation to PGE, the Tribes shall also be deemed to have exercised the option in this Section 5.9 not to sell the PRD Net Output to PGE. Notwithstanding the foregoing, the Tribes' one-time election provided for in this Section shall not be effective for any calendar year during which the Acquisition Loan is outstanding or any Power Purchase and Sale Agreement remains in effect.

5.10 No Prohibition of Alternative Sales of Tribes' Allocation and PRD Net Output to PGE.

No provisions in this Article V shall prohibit the Tribes from selling, and PGE from purchasing, all or any part of the Tribes' Allocation, the Tribes' rights to schedule Project Rights and the PRD Net Output on such terms and conditions as they may agree for any period subsequent to the Implementation Effective Date.

5.11 Power Purchase Agreements.

Notwithstanding the other provisions of this Article V, the Parties agree that PGE shall purchase portions of the Tribes' Allocation and the PRD Net Output in the amounts, at the prices, on the terms and for the periods set forth in the Power Purchase and Sale Agreements. Subject to Sections 5.7 and 5.9, the balance of the Tribes' Allocation and PRD Net Output, if any, not purchased pursuant to the Power Purchase and Sale Agreements shall be purchased by PGE in accordance with the terms of this Agreement. Without in any way limiting PGE's rights under Section 5.13 below, the Tribes hereby grant to PGE a security interest in the Tribe's Allocation, whether now in existence or created or arising at any time in the future, to secure repayment of the Acquisition Loan. PGE's rights under this Agreement are cumulative and may be exercised at any time without affecting any of its other rights under this Agreement. The Tribes represent and warrant that as of the date of this Agreement the Tribes' Allocation and PRD Net Output is free and clear of all liens, charges and encumbrances. The Tribes shall keep the Tribes' Allocation and PRD Net Output free and clear of all liens, charges and encumbrances from and after the date of this Agreement until the Acquisition Loan is repaid in full.

5.12 Acquisition Loan.

On the Transfer Date, PGE shall lend to the Tribes an amount in United States dollars equal to the Estimated Purchase Price, less all of the reasonable and necessary costs incurred by the Tribes to obtain the New FERC License with respect to the Pelton and Round Butte Facilities (the "Acquisition Loan"). Any Adjustment Amount payable by PGE under Section 3.4 of the Asset Purchase Agreement shall be deemed to be a reduction in the principal amount of the Acquisition Loan, and any Adjustment Amount payable by the Tribes under said Section 3.4 shall be deemed to be an increase in the principal amount of the Acquisition Loan, in each case as of the Transfer Date. The Acquisition Loan shall bear interest at 8.50% per annum until January 1, 2003 and 12.71% thereafter, shall be repayable as provided in Section 5.13 and shall be evidenced by a note substantially in the form of Exhibit D hereto.

5.13 Repayment of Acquisition Loan.

The Acquisition Note shall be payable in equal monthly installments as provided in Exhibit D and shall mature on the earlier of (a) January 1, 2007 or (b) the day prior to the date of any sale or other transfer of the Tribes' Ownership Share. The Tribes may prepay the Acquisition Loan in whole or in part at any time without penalty. Until the Acquisition Loan has been repaid in full, all amounts payable by PGE to the Tribes under the Power Purchase and Sale Agreements and under Article V hereof for the Tribes' Allocation or PRD Net Output shall be deemed paid to the Tribes, but shall be retained by PGE as provided in this Section 5.13. All such retained amounts shall be deemed to be applied first to any Costs of Capital Additions payable by the Tribes should the Tribes be in breach of its obligations under Article III, second to any Costs of Operation payable by the Tribes should the Tribes be in breach of its obligations under Article III, and then to the payment of any principal and accrued interest due on the Acquisition Loan, in each case as of the date such retained amounts are payable to the Tribes. To the extent such retained amounts are not adequate to pay in full all Costs of Capital Additions, Costs of Operations and principal and interest then payable by the Tribes, the Tribes shall immediately pay any such deficiency to PGE upon demand. Any excess of the retained amounts over the amounts then payable by the Tribes shall be paid to the Tribes by PGE within the first fifteen days following the calendar month during which the Energy was delivered. Should either of the Power Purchase and Sale Agreements be terminated by the Tribes for any reason before the Acquisition Loan is paid in full, the Tribes shall thereafter make monthly payments in accordance with this Section 5.13 and Exhibit D to this Agreement until the Acquisition Loan is repaid in full.

5.14 Reserve Account.

Until the Acquisition Loan has been repaid in full, the Tribes shall cause Warm Springs Power Enterprises, a tribally chartered enterprise chartered pursuant to Section 12 of the Federal Corporate Charter of the Tribes to maintain a cash reserve account of at least $6,000,000 (the "Reserve Account") for payment of principal and interest on the Acquisition Loan. Upon demand of PGE under Section 5.13 with respect to a deficiency, the Tribes shall use amounts in the Reserve Account to pay such deficiency. If the Reserve Account falls below $6,000,000, the Tribes shall initiate promptly and maintain continuously diligent efforts in good faith to sell long-term bonds on commercially reasonable terms and in amounts sufficient to cover (a) the Tribes' share of projected Costs of Capital Additions and Costs of Operation, (b) any principal and interest due on the Acquisition Loan, and (c) the Reserve Account requirement of $6,000,000.

ARTICLE VI
MUTUAL INDEMNIFICATION; LIMITATION OF OWNERS' LIABILITY

6.1 Mutual Indemnification by Owners.

(a) Subject to the limitations on remedies, warranties and damages provided for in this Agreement, each Owner (the "Indemnifying Owner") agrees to indemnify and hold harmless the other Owner(s) (the "Indemnified Owner") from and against all Claims of third parties, including on account of personal or bodily injury or death to Persons and damage to the Indemnified Owner's property or facilities or the property of any other Person to the extent arising out of, resulting from, or caused by default of this Agreement or by the negligent or

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tortious acts, errors, or omissions of the Indemnifying Owner, its affiliates, directors, officers, employees, or agents. This Section 6.1(a) shall not apply to any acts, errors or omissions of PGE related to its role as Operator.

(b) Promptly after receipt by an Owner of any Claim or notice of the commencement of any action, administrative or legal proceeding, or investigation as to which the indemnity provided for in this Section 6.1 may apply, the Indemnified Owner shall notify the Indemnifying Owner in writing of such fact. The Indemnifying Owner shall assume the defense thereof with counsel designated by such Owner and satisfactory to the Indemnified Owner, provided that if the defendants in any such action include both the Indemnified Owner and the Indemnifying Owner and the Indemnified Owner shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Owner, the Indemnified Owner shall have the right to select and be represented by separate counsel, at the Indemnifying Owner's expense, unless a liability insurer is willing to pay such costs.

(c) If the Indemnifying Owner fails to assume the defense of a Claim meriting indemnification, the Indemnified Owner may at the expense of the Indemnifying Owner contest, settle, or pay such Claim, provided that settlement or full payment of any such Claim may be made only following consent of the Indemnifying Owner or, absent such consent, written opinion of the Indemnified Owner's counsel that such Claim is meritorious or warrants settlement.

(d) Except as otherwise provided in this Article, and subject to the limitations on damages provided herein, in the event that an Owner is obligated to indemnify and hold the other Owner(s) and its successors and assigns harmless under this Section 6.1, the amount owing to the Indemnified Owner will be the amount of the Indemnified Owner's actual loss net of any insurance proceeds received by the Indemnified Owner following a reasonable effort by the Indemnified Owner to obtain such insurance proceeds.

6.2 Exclusion of Liability for Certain Categories of Damages.

Consistent with the Recitals to this Agreement, the Tribes and PGE desire to minimize to the extent possible the potential for future disagreements between them with respect to the Project from matters arising under this Agreement. The Tribes and PGE also recognize the potential magnitude of the potential consequential, incidental or punitive damages that might arise from this Agreement and desire to eliminate the risks each might face were such categories of damages not excluded. For these reasons, the Tribes and PGE agree that the remedies available to them against each other shall be limited as provided below.

(a) THE OWNERS AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON CONTRACT LAW, IN NO EVENT SHALL EITHER OWNER BE LIABLE TO EACH OTHER HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO REPLACEMENT POWER COSTS), PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR

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FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED.

(b) THE OWNERS AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON TORT LAW, IN NO EVENT SHALL EITHER OWNER BE LIABLE TO EACH OTHER HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO REPLACEMENT POWER COSTS), PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM AN OWNER'S SOLE, JOINT OR CURRENT NEGLIGENCE, GROSS NEGLIGENCE OR RECKLESS CONDUCT.

(c) The limitations of liability specified in paragraphs (a) and (b) above shall not apply to any use by one Owner of the Project Rights to which another Owner is entitled.

(d) To the extent the foregoing limitations of liability and exclusions of damages described in paragraphs (a) and (b) above are for any reason determined to be ineffective by a court of competent jurisdiction, the Owners stipulate that the calculation of damages for those Claims which survive the limitations and exclusions specifically set forth in paragraphs (a) and (b) shall be no greater than $500,000 per Claim.

ARTICLE VII
WAIVER OF IMMUNITY; DISPUTES

7.1 Waiver of Immunity.

The Tribes acknowledge and agree that in entering into this Agreement, they may incur obligations to PGE, and PGE's successors and assigns, and may become liable to these parties for injunctive or declaratory relief or for damages. The Tribes further acknowledge that PGE would not enter into this Agreement with the Tribes if the Tribes could defeat or hinder enforcement against them of the rights granted to PGE by claiming sovereign immunity. THIS WAIVER OF THE SOVEREIGN IMMUNITY OF THE TRIBES FROM SUIT OR ACTION IS ADOPTED PURSUANT TO THE TERMS OF WARM SPRINGS TRIBAL CODE CHAPTER 30 AND SHALL BE STRICTLY CONSTRUED AND LIMITED TO ITS SPECIFIC TERMS AND THE SPECIFIC WAIVER GRANTED. SUBJECT TO THE PROVISIONS OF SECTION 7.4, THE TRIBES THEREFORE HEREBY CONSENT TO SUIT, ARBITRATION, ENFORCEMENT AND COLLECTION OF JUDGMENTS, AWARDS, INJUNCTIONS AND DECLARATORY JUDGMENTS AS TO ANY OBLIGATIONS ARISING OUT OF THIS AGREEMENT. THE TRIBES FURTHER EXPRESSLY WAIVE, WITHOUT LIMITATION, ANY CLAIM OR ASSERTION OF SOVEREIGN IMMUNITY FROM SUIT IN ACTIONS (a) TO INTERPRET OR ENFORCE ANY PROVISION OF OR RIGHTS GRANTED IN THIS AGREEMENT, (b) TO SEEK JUDGMENT FOR MONETARY OBLIGATIONS ARISING UNDER THIS AGREEMENT AND (c) TO ENFORCE AND COLLECT ANY JUDGMENT IN ANY SUIT OR ARBITRATION CONCERNING OR ARISING OUT OF THIS AGREEMENT.

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7.2 Choice of Laws.

This Agreement shall be governed by, and construed, interpreted and enforced in accordance with, the substantive law of the State of Oregon (without reference to any principles of conflicts of laws), except to the extent such Oregon laws may be preempted by the laws of the United States of America.

7.3 Dispute Resolution.

(a) Scope of Disputes Covered. The provisions of this Section 7.3 shall govern all disputes between the Parties relating to this Agreement other than (i) those disputes specified in Sections 3.1(f) and 3.2 and Article VIII which are to be determined exclusively pursuant to arbitration following the procedures specified in Section 3.2(g) and (ii) the potential disputes specified in Sections 5.4(d) and 12.2(c) which are to be determined exclusively pursuant to arbitration following the procedures specified in Section 7.3(d).

(b) Mandatory Mediation. As a condition precedent to commencing any Proceedings, relating to this Agreement or the subject matter hereof, each Party shall first submit the Claim or controversy to mandatory mediation for a period of ninety days following appointment of a mediator. The Parties agree to cooperate and operate in good faith to appoint the mediator and to attempt to resolve all matters in dispute with the assistance of the mediator. If the Parties are unable to agree unanimously upon the appointment of the mediator, then they shall unanimously seek appointment of a mediator by the Chief Judge of the United States District Court for the District of Oregon. If the Chief Judge refuses, or fails, to act the mediator shall be selected by the senior United States Senator from the State of Oregon. PGE and the Tribes agree to share equally the mediator's fees and expenses.

(c) Jurisdiction and Venue. The Parties agree that any disputes concerning, relating to or arising out of this Agreement present a federal question. With respect to any Proceeding each Party irrevocably submits to the exclusive jurisdiction of the United States District Court for the District of Oregon located in Portland, Oregon. Each Party hereto irrevocably waives any objection which it may have at any time to the laying of venue of any Proceeding brought in the United States District Court for the District of Oregon located in Portland, Oregon, waives any claim that such Proceeding has been brought in an inconvenient forum and further waives the right to object, with respect to such Proceeding, that such court should not exercise its jurisdiction or should defer to some other judicial or administrative tribunal. In the event such court determines that the subject matter of the Proceeding does not fall within the statutory jurisdiction of U.S. District Courts or for any reason declines to exercise jurisdiction over the Proceeding, then the dispute shall be resolved by judicial proceedings in a court of the State of Oregon which has jurisdiction and venue. Except for the limited purpose specified in Section 7.3(d) below, each Party hereto irrevocably waives any right it might otherwise have to seek to have any Proceeding determined in any tribal court and agrees that assumption of jurisdiction by any federal or state court shall not be delayed or curtailed by any doctrine requiring exhaustion of tribal court remedies. PGE's entry into this Agreement and the Included Agreements shall not be deemed to give rise to a consensual relationship that would establish the Tribes' jurisdiction over PGE's activities.

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(d) Determination by Arbitration. In the event both the United States District Court for the District of Oregon and the courts of the State of Oregon determine that the subject matter of the Proceeding does not fall within their statutory jurisdiction or for any reason both decline to exercise jurisdiction over the Proceeding, then the Parties shall submit the Proceeding to arbitration in Portland, Oregon under the Commercial Arbitration Rules of the American Arbitration Association. The Parties agree that any such Proceeding shall be submitted to three arbitrators selected by the American Arbitration Association from its panel of arbitrators. The arbitrators shall not have authority to award damages prohibited by this Agreement. The Parties further agree that they will faithfully observe this Agreement and the rules, and that they will abide by and perform any award rendered by the arbitrators and that a judgment of a court having jurisdiction may be entered upon the award; provided, the award may be challenged and modified in whole or part or denied enforcement in whole or part, but only on the basis that the award exceeded the scope of the arbitrators' authority under this Agreement or the Federal Arbitration Act. In the event neither a federal court nor an Oregon court has, or will accept, jurisdiction to enter an order upon the award, then the Tribes and PGE agree that a tribal court judge pro tempore of the Warm Springs Tribal Court shall have jurisdiction exclusively for the purpose of entering an order upon the award. The tribal court judge pro tempore shall be a retired federal court judge who shall be selected from a publicly available list of retired federal court judges, by mutual agreement of the Tribes and PGE, with each of the Tribes and PGE proposing three names from such list to the other and the Tribes and PGE seeking to reach agreement on a judge from such proposed names within fifteen days after the exchange of their respective lists of three names. If the Tribes and PGE are unable to agree on a judge from such list, the selection shall be made from such publicly available list by the CPR Institute for Dispute Resolution, 366 Madison Ave., New York, NY ("CPR"). If CPR is unable or unwilling to select such judge, then the selection shall be made from such publicly available lists, taking into consideration the names provided on the lists proposed by the Tribes and PGE, by another alternative dispute resolution service agreeable to the Tribes and PGE. Judges proposed or selected shall provide to each of the Tribes and PGE statements of any relationships with either Party. Any judge selected shall be impartial and shall not have disqualifying relationships with any Party.

7.4 Limitations on Recourse.

The Tribes hereby grants to PGE a security interest in the Tribes' Project Rights, whether now in existence or created or arising at any time in the future, to secure any and all obligations of the Tribes to PGE under this Agreement and/or with respect to the Project. PGE hereby grants to the Tribes a security interest in PGE's Project Rights, whether now in existence or created or arising at any time in the future, to secure any and all obligations of PGE to the Tribes under this Agreement and/or with respect to the Project. The Parties' rights under this Agreement are cumulative and may be exercised at any time without affecting any of its other rights under this Agreement. PGE agrees to seek satisfaction of any Claims it may have against the Tribes under this Agreement and otherwise with respect to the Project only from the Tribes' Allocation. Likewise, the Tribes agree to seek satisfaction of any Claims they may have against PGE under this Agreement and otherwise with respect to the Project only from PGE's Allocation. Notwithstanding the foregoing, until the Acquisition Loan is paid in full, if amounts due PGE are not paid in accordance with Section 5.13, PGE can seek recourse from among the Tribes' Allocation, the Reserve Account as described in Section 5.14, or any insurance proceeds the

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Tribes may have received or be entitled to receive related to the Project either under Article XI or otherwise. The provisions of this Section 7.4 do not limit the rights of either the Tribes or PGE to seek (a) specific performance of this Agreement, (b) other injunctive relief or (c) any other form of non-monetary relief.

ARTICLE VIII
DAMAGE TO PROJECT; END OF PROJECT

8.1 Damage to the Project.

(a) In the event that the Project suffers damage resulting from causes other than ordinary wear, tear or deterioration, to the extent that the estimated cost of repair as unanimously agreed by members of the Operating Committee, or, if they cannot agree within a period of six (6) months from the date of damage, as determined by the Arbitrator pursuant to Section 3.2(g), is less than or equal to $50,000,000, and if the Owners do not unanimously agree that the Project shall be ended pursuant to Section 8.2, the Operator shall promptly submit a revised Operating Budget and shall proceed to repair the Project, and each Owner shall pay as budgeted, into the Operating Trust Account, its Ownership Share of the cost thereof.

(b) If the Project suffers damage to the extent that the estimated cost of repair exceeds $50,000,000 as determined in Section 8.1(a), the Operating Committee shall agree upon, or if they cannot so agree within six (6) months from the date of damage, the arbitrator shall determine the estimated value of the Project as and when repaired. Thereafter, each Owner which, within a reasonable time to be determined by the Operating Committee, gives notice in writing to the other parties of its desire that the Project be repaired, shall, in the proportion that its Ownership Share bears to the total of the Ownership Shares of all Owners giving such notice, pay into the Operating Trust Account, as budgeted in a revised budget, all of the cost of repair. If any Owner has given such notice, the Ownership Share of each Owner which does not give notice shall, at the end of the reasonable time which was determined by the Operating Committee, be reduced to the extent determined by the following formula:

$$S2 = S1 \frac{[V - (C - I)]}{[V]}$$

where

V	=	Estimated value of the Project as repaired
C	=	Estimated cost of repair
I	=	Estimated insurance proceeds, if any, inuring to the benefit of all Parties (shall not include insurance proceeds to which only individual Parties are entitled)
S1	=	Ownership Share prior to loss
S2	=	Reduced Ownership Share

At the same time, the amount of such reduction shall be added to the Ownership Share of the Owners giving such notice in the proportion that the Ownership Share of each bears to the total of the Ownership Shares of all Owners giving such notice.

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(c) If the Project suffers damage to the extent that the estimated cost of repair as determined in Section 8.1(a) exceeds $50,000,000 and no Owner gives the notice required by Section 8.1(b), the damaged Project shall not be repaired. If portions of the Project are still capable of economically generating electricity, then the Operator shall implement the procedures specified in Section 8.2 with respect to the damaged facilities and continue to operate the remaining facilities. If none of the Project is still capable of economically generating electricity, then the Operator shall end the Project pursuant to Section 8.2.

(d) The Parties expressly agree that no reduction in the Tribes' Ownership Share that may occur pursuant to Section 8.1(b) above shall affect the agreement in Article V of the Long-Term Global Settlement and Compensation Agreement establishing full and fair compensation to the Tribes.

8.2 End of the Project.

When the Project can no longer be made capable, consistent with Prudent Utility Practice as determined (if necessary) by the arbitrator pursuant to Section 3.2(g), of producing electricity, or is not licensable, or when the Project is ended pursuant to Section 8.1, or when the Owners otherwise agree to end the Project, the Operator shall sell for removal all salable parts of the Project to the highest bidders. After deducting all costs of termination of the Project, including the cost of decommissioning, razing all structures and disposing of the debris and meeting all requirements of Applicable Law, the Operator shall close the Operating Trust Account and, if there are net proceeds, distribute to each Owner its Ownership Share of such proceeds. In the event such cost of ending the Project exceeds available funds, each Owner shall pay its Ownership Share of such costs incurred.

ARTICLE IX
TERM AND TERMINATION

9.1 Term.

This Agreement shall be effective ("Effective Date") upon the Transfer Date as defined in the Asset Purchase Agreement. The term of this Agreement ("Term") shall be from the Effective Date through the date of expiration or earlier termination of the New FERC License ("Termination Date"), provided that the Parties shall comply with any orders of any Governmental Authority with respect to any earlier termination and the costs of such compliance shall be Costs of Operation hereunder.

9.2 Termination.

This Agreement shall not be subject to termination by any party prior to the Termination Date except as expressly provided in Section 9.1 and Article VIII. Each of the Parties, to the extent not prohibited by Applicable Law, waives all rights now or hereafter existing, conferred by statute, common law or otherwise to quit, terminate or surrender this Agreement.

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ARTICLE X
DEFAULT AND REMEDIES

10.1 Default.

(a) Upon failure of an Party to make any payment when due, fulfill any covenant, or, except as excluded by Section 13.1, perform any material obligation of a Party herein, any other Party may make written demand upon said Party.

(b) If the failure of a Party is to make a payment when due and such failure is not cured within five (5) days from the date of a demand pursuant to Section 10.1(a), it shall constitute a default at the expiration of such period.

(c) If the failure of a Party is to fulfill any covenant or to perform any other material obligation the non-performance of which is not excused by Section 13.1 hereof, and if (i) such material violation or breach has not been waived by the other Party, (ii) such material violation or breach is capable of being cured by the non-performing Party and (iii) the non-performing Party has failed (A) to cure such material violation or breach within thirty (30) days of receipt of written notice thereof by the other Party or (B) in the event a material breach cannot be cured despite diligent efforts within a thirty (30) day period, the non-performing Party has failed to initiate promptly and maintain continuously diligent efforts to cure such breach, then the failure shall, at the expiration of such period, constitute a default.

(d) If a Party in good faith disputes the existence or extent of a failure described in Section 10.1(a), it shall, within the applicable period set forth in Section 10.1 (b) or (c), make such payment or perform such obligation under written protest directed to the other Parties. Such dispute shall be resolved pursuant to Sections 7.1 through 7.3.

10.2 Remedies.

(a) An Owner in default shall have no right to use its Project Rights, nor to have representation on the Operating Committee, nor to exercise any other right of an Owner.

(b) If a default is limited to a failure of the defaulting Owner to make payments, the defaulting Owner's Ownership Share of Project Rights may be sold by the non-defaulting Owner during the period of default for the benefit of the defaulting Owner (to third parties or other Owners) and the proceeds applied to the amounts owed by such Owner. Payments not made when due may be advanced by the other Owners and, if so advanced, shall bear interest until paid at the rate of one percent (1%) per month or the highest lawful rate, whichever is lower.

(c) If a default involves failure of the defaulting Owner to fulfill any covenant or to perform any other material obligation the non-performance of which is not excused by Section 13.1 hereof, the defaulting Owner's Ownership Share of Project Rights may be used or sold by the non-defaulting Owner as they see fit during the period of the default, and the value of the defaulting Owner's Ownership Share of such Project Rights shall be an offsetting claim to the damages suffered by the non-defaulting Owner as a result of the default.

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(d) In addition to the rights granted in this Section 10.2, any non-defaulting Party may take any action, in law or equity, to enforce this Agreement and, subject to the limitations expressed in this Agreement, to recover for any loss or damage, including reasonable attorneys' fees and costs incurred by reason of such default, both at trial and upon any appeal.

ARTICLE XI
INSURANCE

11.1 Project Property and Equipment.

The Operator shall obtain and maintain in force for the Owners and the Operator as their interests shall appear insurance for " all risks" of physical loss or damage to property and equipment part of or in any way related to the Project, with replacement cost coverage and otherwise in the same manner as the Operator insures its other owned and operated like facilities. All Owners shall be named insureds and loss payees as their interests may appear under all policies maintained pursuant to this Section 11.1.

11.2 Workers' Compensation, General Liability and Automobile Liability.

The Operator shall obtain and maintain the following insurance during the Term of this Agreement related to its activities as Operator:

(a) Workers' compensation insurance to comply with Oregon laws and employer's liability coverage for $2,000,000 each accident and $2,000,000 disease each employee. Coverage shall also be secured as specified in the United States Longshore and Harbor Workers' Act for work to be performed on or near navigable waters. (The Parties do not hereby represent or take the position that the Deschutes River is or is not navigable).

(b) General liability insurance, including coverage for contractual liability, Project operations, products and completed operations, with a combined single limit of $35,000,000 for personal and bodily injury and property damage per occurrence and in the aggregate. Any watercraft exclusion shall be deleted if service necessitates use of watercraft of any kind. Such general liability insurance may be in any reasonable combination of primary and excess liability policies. If the general liability policy is a "claims-made policy" and it is cancelled or not renewed, then the Operator shall make reasonable efforts to secure upon reasonable terms and conditions, including a reasonable premium, either a "tail policy" or a "sunrise endorsement." The Operator may, but shall not be required to, carry general liability insurance coverage its role as Operator in excess of the foregoing $35,000,000 limit. If the Operator does so, it shall offer the Tribes the option to contribute on an equitable basis to the cost of excess coverage up to a maximum limit of $65,000,000 as Costs of Operation. If the Tribes exercise such option, the indemnity described in Section 3.1(e)(iv) shall extend to such excess coverage subject to the maximum limit of $65,000,000. If the Tribes do not exercise such option, the indemnity described in Section 3.1(e)(iv) shall not extend to such excess coverage.

(c) Automobile liability to include coverage for all owned, non-owned and hired vehicles for $5,000,000 per accident. Such automobile liability insurance may be in any reasonable combination of primary and excess liability policies. The deductible shall not exceed $5,000 absent unanimous approval of the Operating Committee.

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If, consistent with the manner in which the Operator insures its other owned and operated like facilities, the Operator provides any of the insurance required in Sections 11.2(a) and (b) through a self-insurance program, then any losses or damages shall be treated as Costs of Operation and shared by the Owners in accordance with their Ownership Shares.

11.3 Consequential Damages.

Unless the Operator insures its other owned and operated facilities for such risks pursuant to the coverage described in Section 11.1 above, in no event shall the Operator be required to obtain or maintain insurance to insure against consequential damages including, but not limited to, business interruption, loss of profits or revenue, loss of use of the Project or any associated equipment, cost of capital, cost of purchased power, cost of substitute equipment, facilities or services, downtime costs, or Claims of customers of the Owners for such damages and such claims from the Owners' customers.

11.4 Primary Insurance.

All insurance carried by the Operator pursuant to this Section 11, including that described in Section 11.2(b) to the extent of Operator's indemnification obligation specified in Section 3.1(e) (iv), shall be primary to any other available coverage. Any other available coverage maintained by any Owner shall not be contributory.

11.5 Costs of Operation.

Except as specified in Section 11.2(b) with respect to excess general liability coverage, the costs of all insurance maintained by the Operator pursuant to this Section 11 shall be treated as Costs of Operation.

11.6 Coverage to be Maintained by Owners.

In addition to insurance procured by the Operator pursuant to Sections 11.1 and 11.2 above, each of the Owners shall also procure the insurance described in paragraphs (a), (b) and (c) below related to its capacity and activities as an Owner of the Project.

(a) Workers' compensation insurance to comply with Oregon laws or Tribal laws, whichever are applicable, and employer's liability coverage for $2,000,000 each accident and $2,000,000 disease each employee. Coverage shall also be secured as specified in the United States Longshore and Harbor Workers' Act for work to be performed on or near navigable waters. (The Parties do not hereby represent or take the position that the Deschutes River is or is not navigable).

(b) General liability insurance, including coverage for contractual liability, products and completed operations, with a combined single limit of $5,000,000 for personal and bodily injury and property damage per occurrence. Any watercraft exclusion shall be deleted if service necessitates use of watercraft of any kind. Such general liability insurance may be in any reasonable combination of primary and excess liability policies.

EXHIBIT 2

(c) Automobile liability to include coverage for all owned, non-owned and hired vehicles for $5,000,000 per accident. Such automobile liability insurance may be in any reasonable combination of primary and excess liability policies.

Any Owner may provide the insurance required in this Section 11.6 through a self-insurance program with the permission of the other Owners, which shall not be unreasonably withheld.

11.7 Waiver of Subrogation.

Each Owner and the Operator shall require their insurance underwriters to waive all their rights of recovery, under subrogation or otherwise, against the Operator and the other Owner(s).

11.8 Status of Insurance.

The Operator shall keep the Owners informed of changes in and the status of insurance in force, and provided it does so, the Operator shall not be liable to any of the Owners for any failure to insure nor any inadequacy of coverage.

11.9 Supplemental Insurance.

Nothing in this Agreement shall prohibit any Owner or the Operator from procuring insurance that supplements the coverages required by this Agreement. The Party purchasing such supplemental coverage shall be solely responsible for the premiums therefor and shall solely be entitled to retain any payments related thereto from the insurance carrier.

11.10 Election to Purchase Separate Coverage.

Notwithstanding any other provision of this Agreement, either Owner may in its discretion elect not to participate in the insurance program the Operator is otherwise required to maintain pursuant to this Section 11. The electing Owner may make such election with respect to any one or more of the coverages the Operator is required to maintain pursuant to Sections 11.1 and 11.2. Any such election shall be in writing delivered to the Operator with reasonable advance notice under the circumstances and, assuming reasonable advance notice has been given, shall be effective upon the expiration of the current term of the subject policy, or such other date as the subject Owner and Operator may agree. Upon the effective date the electing Owner shall no longer be responsible for Costs of Operation attributable to the premiums for such policy and shall not be entitled to participate in any payments related thereto from the insurance carrier. In the event the electing Owner chooses not to participate in the general liability policy and coverage specified in Section 11.2 (b), then the indemnity obligation of the Operator specified in Section 3.1(e)(iv) shall immediately cease and be of no effect relative to such electing Owner.

EXHIBIT 2

ARTICLE XII
ASSIGNMENTS AND TRANSFERS

12.1 Assignments and Transfers.

Neither this Agreement nor any right, interest or obligation hereunder may be assigned by either Owner without the prior written consent of the other Owner hereto, which Owner may withhold its consent in its sole discretion, and any attempted assignment shall be void, except the following assignments and transfers which shall not require such consent:

(a) assignments and transfers which occur by operation of law;

(b) assignments and transfers by PGE of its rights, interests and obligations hereunder, in whole or in part, to an Affiliate;

(c) assignments and transfers by the Tribes of their rights to receive payments from PGE or the Tribes' Allocation of Project Rights hereunder, provided, that any such assignments and transfers by the Tribes shall not involve any mortgage, grant of a security interest or other encumbrance of the Tribes' title to the Project;

(d) assignments and transfers by PGE of all or any part of its interest in the Project to any mortgagee, trustee or secured party, as security for bonds or other indebtedness of PGE, present or future;

(e) assignments and transfers by PGE of all or any part of its interest hereunder to any entity acquiring all or a substantial portion of PGE's property;

(f) assignments and transfers by PGE to any entity into which or with which PGE is merged or consolidated;

(g) assignments and transfers by PGE to the State of Oregon, an agency thereof or to a trust, cooperative or other non-profit entity provided PGE has complied with Section 12.3 of this Agreement; or

(h) assignments and transfers by PGE of its Ownership Share of the Project to a for-profit entity provided PGE has complied with Section 12.2 of this Agreement.

Assignments and transfers shall not relieve an Owner of any obligation hereunder, except to the extent agreed in writing by the other Owners, provided that an otherwise valid assignment or transfer by PGE to a Person (a) having, as of the date of such assignment or transfer, a tangible net worth not less than that of PGE as of such date (or whose obligations hereunder are guaranteed by a Person having such tangible net worth), and (b) having an Investment Grade or higher rating on its senior, unsecured debt as of such date, shall automatically result in a full and complete release or PGE from all of its unmatured obligations hereunder and a novation of this Agreement between the Tribes and such assignee or transferee.

EXHIBIT 2

12.2 Right of First Refusal Upon Sale by PGE.

Upon the terms and conditions set forth in this Section 12.2, PGE shall afford the Tribes a right of first refusal to purchase all or any portion of PGE's Ownership Share in the Project that PGE chooses to sell ("Right of First Refusal").

(a) The Right of First Refusal provided for in this Section 12.2 shall apply only to a transfer by PGE described in Section 12.1(h) that does not meet any of the other criteria specified in Section 12.1(a)-(g). The Right of First Refusal shall not apply to a transfer by PGE described in Section 12.3.

(b) PGE shall not be required to afford the Tribes the First Right of Refusal unless PGE determines it would accept a third party offer. (If PGE conducted an auction, for example, and reserved the right to reject all bids, PGE could reject the highest bid and choose not to sell, either to the highest bidder or to the Tribes).

(c) PGE shall provide the Tribes notice of its intent to accept a third party offer for PGE's Ownership Interest in the Project and shall provide the Tribes a copy of the definitive agreement establishing the price and terms of the proposed transaction. The Tribes shall have forty-five days from the date of receipt from PGE of notice and the definitive agreement within which to conduct any due diligence and to decide whether to exercise the Right of First Refusal. A condition precedent to exercise of the Right of First Refusal and closing is that Tribes not be in default of the Global Settlement Agreement, the Power Purchase and Sale Agreements, this Agreement or any other material agreement to which the Tribes are a party, whether or not PGE is a counterparty. Unless the Tribes have notified PGE affirmatively in writing of their exercise of the Right of First Refusal within such forty-five (45) day period, the Tribes shall be deemed to have waived their Right of First Refusal with respect to the subject offer. To be effective, the Tribes' exercise of the Right of First Refusal must (i) be an unconditional acceptance to purchase the proffered assets on the same terms and conditions as contained in the definitive agreement referenced above (specifically including date of closing and payment terms), (ii) apply to the entire interest in the Pelton and Round Butte Facilities being transferred. (E.g., if PGE were transferring its entire Undivided 66.67% Interest, the Tribes would have to purchase that amount--they could not choose to purchase, say, half of that amount.) and (iii) be accompanied by payment of the topping fee described in Section 12.2(e) below. In addition, elements of this Ownership and Operation Agreement unique to the Tribes' sovereign status, such as jurisdiction and waiver of immunity, shall be added to the terms of the definitive agreement to be executed by the Tribes. To the extent the Tribes are legally precluded from complying with one or more terms of the definitive agreement between PGE and the third party, the Tribes shall provide PGE equivalent value in either alternative terms or money. Any disputes concerning equivalency shall be resolved by arbitration using the procedures specified in Section 7.3(d) of this Agreement.

(d) To provide PGE appropriate assurance that it will be able to obtain necessary regulatory approvals for a sale by PGE to the Tribes, at the time the Tribes exercise the Right of First Refusal the Tribes shall establish to PGE's reasonable satisfaction either (i) the Tribes have acquired the expertise necessary to operate the Project or (ii) the Tribes will within sixty days after their exercise of the Right of First Refusal enter into an agreement with a

EXHIBIT 2

competent third party, acceptable to FERC and the State of Oregon, to be the Project Operator. PGE shall have the right to reject the Tribes' exercise of the Right of First Refusal and proceed with PGE's proposed sale if the Tribes fail to provide either the assurance described in Section 12.2(d)(i) or that described in Section 12.2(d)(ii).

(e) To mitigate potential dampening of interest in any sale which dampening could be harmful to PGE's customers and/or shareholders and to provide funds that may be required to compensate an otherwise successful purchaser for its efforts to investigate and implement a purchase from PGE, upon their exercise of the Right of First Refusal the Tribes shall pay PGE a non-refundable "topping fee" equal to the greater of 5% of the sales price or a minimum of $4 million dollars.

(f) PGE shall have the right to reject the Tribes' exercise of the Right of First Refusal if the Tribes, having established to PGE's satisfaction that they will enter into an operating agreement with a competent third party pursuant to Section 12.2(d)(ii), nevertheless do not achieve such an agreement within the required sixty (60) day time frame. If PGE so rejects the Right of First Refusal pursuant to this Section 12.2(f), then (i) PGE may make the sale to the original purchaser or any other potential purchaser at whatever price and on whatever terms PGE deems appropriate and (ii) if PGE is unable to consummate the sale to the original purchaser on the same terms and conditions as those in the definitive agreement presented to the Tribes in accordance with Section 12.2(c) above, PGE shall be entitled to retain the topping fee paid by the Tribes pursuant to Section 12.2(e) above to compensate PGE for its expenses and for its lost opportunity to consummate the original sale. If PGE does not consummate the sale to the original purchaser or another purchaser at such time, then the Tribes' Right of First Refusal shall terminate and not apply to any future transfers by PGE.

(g) PGE shall have the same rights vis-a-vis the Tribes as it would vis-a-vis the proposed third party purchaser to terminate the purchase based on regulatory conditions on approval, as well as other conditions constituting a material adverse change. If PGE terminates the purchase pursuant to this Section 12.2(g) other than as a result of a material adverse change relating specifically to the Tribes, then (i) PGE may not make the sale to the original purchaser or any other potential purchaser, (ii) the Tribes' Right of First Refusal shall not terminate and shall apply to any future transfers by PGE and (iii) PGE shall promptly return to the Tribes the topping fee paid by the Tribes pursuant to Section 12.2(e).

(h) If Tribes exercise the foregoing Right of First Refusal and do not then complete the purchase, other than for reasons totally outside the reasonable control of Tribes, (i) PGE may make the sale to the original purchaser or any other potential purchaser at whatever price and on whatever terms PGE deems appropriate and (ii) if PGE is unable to consummate the sale to the original purchaser on the same terms and conditions as those in the definitive agreement presented to the Tribes in accordance with Section 12.2(c) above, PGE shall be entitled to retain the topping fee paid by the Tribes pursuant to Section 12.2(e) above to compensate PGE for its expenses and for its lost opportunity to consummate the original sale. If PGE does not consummate the sale to the original purchaser or another purchaser at such time, then the Tribes' Right of First Refusal shall terminate and not apply to any future transfers by PGE.

EXHIBIT 2

(i) The Tribes' Right of First Refusal is subject to changes in law and actions of governmental entities that might impair the exercise of such Right of First Refusal or the purchase of PGE's interest. In the event of such a change in law or action of Governmental Authorities that prevents exercise of such Right of First Refusal or the purchase of PGE's interest, (i) PGE may make a sale to the third party and (ii) regardless of whether it makes such a sale, PGE shall have no liability to the Tribes arising from such impairment of the Tribes' Right of First Refusal.

12.3 Acceleration of Tribes' First Purchase Option and Second Purchase Option.

Any sale by PGE of its Ownership Share of the Project to the State of Oregon, an agency thereof or to a trust, cooperative or other non-profit entity shall be subject to the right of the Tribes to exercise prior thereto the First Purchase Option and the Second Purchase Option, as these terms are defined in the Global Settlement Agreement. PGE shall notify the Tribes at least one hundred fifty (150) days in advance of the projected sale to one of the entities referred to in the immediately preceding sentence. The Tribes shall then have seventy-five days within which to exercise this option to exercise either or both the First Purchase Option and the Second Purchase Option as of a date no sooner than seventy-five (75), and no later than one hundred fifty (150) days, after the Tribes have given PGE notice of their election to exercise this option. The Tribes shall purchase the interest(s) from PGE, upon the same terms and conditions as those contained in the Asset Purchase Agreement, subject only to the following modifications:

(a) the date of closing, transfer of title and payment of the purchase price shall be the date specified in the Tribes' notice, or if not a Business Day, then the next Business Day thereafter;

(b) the Purchased Assets, as defined in the Asset Purchase Agreement, purchased by the Tribes shall be the Undivided 16.66% Interest in the Pelton and Round Butte Facilities and or the Undivided .02% Interest in the Pelton and Round Butte Facilities, as the case may be, as such facilities exist as of the closing;

(c) the Purchase Price, as defined in the Asset Purchase Agreement, shall be (i).2498 times PGE's Ownership Share of the Net Book Value of the Pelton and Round Butte Facilities as of the closing date, as reflected on PGE's books of account as of that date, with respect to a sale of the Undivided 16.66% Interest, plus (ii) .0004 times PGE's Ownership Share of the Net Book Value of the Pelton and Round Butte Facilities as of the closing date, as reflected on PGE's books of account as of that date, with respect to a sale of the Undivided .02% Interest, plus (iii) the commitment of the Tribes to pay PGE either (A) a sum of money agreed by them or (B) the net benefits PGE would have received if it had continued to receive the Project Rights associated with the Ownership Share sold to the Tribes during the period from the closing to the dates the Tribes would have been able to exercise the First Purchase Option and the Second Purchase Option pursuant to the terms of the Long-Term Global Settlement and Compensation Agreement. Such net benefits shall be determined by application of the following formula:

EXHIBIT 2

Annual Tribes Payment to PGE = (PS * Annual Energy Value)
- (PS/OP) * (GP + Additions - AD-DT) * CC)
- (PS * O&M)
- (PS * Depreciation)
- (PS/OP * Property Taxes)

Where,

PS = PGE Ownership Share percentage sold to the Tribes pursuant to this Section 12.3 (.1668 if both the First Purchase Option and Second Purchase Option are exercised, and .0002 if only the Second Purchase Option is exercised)

OP = PGE Project Ownership Share percentage just prior to the time of the sale

GP = PGE's gross plant in service value associated with OP just prior to the time of the sale

AD = PGE's accumulated depreciation associated with OP at the time of the sale plus "Depreciation" (as defined below) for the period subsequent to the sale

DT = PGE's deferred taxes associated with OP at the time of the sale plus deferred taxes PGE would have incurred but for the sale

Additions = Cumulative Capital Additions for OP subsequent to the time of the sale

Depreciation = Depreciation on plant & Capital Additions subsequent to the time of the sale

O&M = Total annual Project direct operation & maintenance expenses but not to exceed the average real Annual Project direct O&M for the last ten years of the New FERC License (determined by adjusting actuals to account for changes in the CPI) unless such excess is attributable to conditions imposed by the FERC license which follows the New FERC License (Budget trued up to actuals at year end)

CC = PGE's weighted average cost of capital, grossed up for income taxes, of 12%

Scheduled Hourly Project Energy = Available Project Energy pre-scheduled on hourly basis for the PGE OP

Hourly Market Price = Mid-Columbia hourly market price or appropriate substitute

Annual Energy Value = Annual sum (Scheduled Hourly Project Energy * Hourly Market Price)

For purposes of the monthly calculation the energy value would be for the specific month, O&M would be the budget spread equally over the year and trued up to actuals in the December billing, while the capital costs are assumed to be spread equally over the year with no true up during the year. Payments would be made on a monthly basis within 15 days of the end of the month.

EXHIBIT 2

ARTICLE XIII
MISCELLANEOUS

13.1 Effect of Force Majeure.

If any Party is rendered unable by Force Majeure to carry out, in whole or in part, its obligations under this Agreement and such Party gives written notice and full details of the event to the other Party as soon as practicable after the occurrence of the event, then during the pendency of such Force Majeure but for no longer period, the obligations of the Party affected by the event (other than the obligation to make payments then due or becoming due with respect to performance prior to the event) shall be suspended to the extent required. The Party affected by the Force Majeure shall remedy the Force Majeure with all reasonable dispatch.

13.2 Mutual Covenants to Perform under Long-Term Global Settlement Compensation Agreement.

PGE hereby covenants to perform fully during the Term of this Agreement all of its obligations under the Long-Term Global Settlement and Compensation Agreement. The Tribes hereby covenant to perform fully during the Term of this Agreement all of their obligations under the Long-Term Global Settlement and Compensation Agreement.

13.3 Attorney Fees and Litigation Expenses.

In the event any action is commenced to recover damages or enforce any rights or obligations under this Agreement, then the prevailing Party in such action shall be entitled to recover its attorney fees, including the reasonable fees of in-house counsel, expert fees, and all reasonable out-of-pocket expenses incurred in enforcing the prevailing Party's rights under this Agreement, regardless of whether those fees, costs or expenses are otherwise recoverable as costs in the action, including all fees and expenses incurred in investigation and preparation of the action before it is filed and upon appeal.

13.4 Notices.

(a) Means of notification.

Unless this Agreement specifically requires otherwise, any notice, demand or request provided for in this Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by telegraph, telex, or fax or by acknowledged delivery, or sent by registered or certified mail, postage prepaid to the person specified below:

To The Tribes:

Confederated Tribes of the Warm Springs Reservation
Chairman, Tribal Council
P. O. Box C
Warm Springs, OR 97761

EXHIBIT 2

with a copy to:

Confederated Tribes of the Warm Springs Reservation
Secretary-Treasurer
P. O. Box C
Warm Springs, OR 97761

and a copy to:

Mr. Dennis C. Karnopp, Esq.
Karnopp, Petersen, Noteboom, Hansen, Arnett, & Sayeg LLP
1201 NW Wall St.
Suite 300
Bend, OR 97701

To PGE:

Portland General Electric Company
Attention: Senior Vice President, Power Supply
1-World Trade Center-17
121 SW Salmon Street
Portland, OR 97204

with a copy to:

Portland General Electric Company
Attention: General Counsel
1-World Trade Center-17
121 SW Salmon Street
Portland, OR 97204

(b) Effective Time.

Notice given pursuant to this Section 13.4 shall be effective upon physical receipt by both of the remaining Party.

13.5 Waivers.

Except as otherwise provided herein, no provision of this Agreement may be waived except in writing. No failure by any Party to exercise, and no delay in exercising, short of the statutory period, any right, power or remedy under this Agreement shall operate as a waiver thereof. Any waiver at any time by a Party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection therewith, shall not be deemed a waiver with respect to any subsequent default or matter.

EXHIBIT 2

13.6 No Reliance.

Each Party acknowledges that in entering into this Agreement, it has not relied on any statement, representation or promise of the other Party or any other Person or entity, except as expressly stated in this Agreement.

13.7 Assumption of Risk.

In entering into this Agreement, each of the Parties assumes the risk of any mistake of fact or law, and if either or both of the Parties should subsequently discover that any understanding of the facts or the law was incorrect, neither of the Parties shall be entitled to, nor shall attempt to, set aside this Agreement or any portion thereof.

13.8 Waiver of Defenses.

Upon the execution of this Agreement, the Parties release each other from any and all Claims relating to the formation and negotiation of this Agreement, including, but not limited to reformation, rescission, mistake of fact, or mistake of law. The Parties further agree that they waive and will not raise in any court, administrative body or other tribunal any Claim in avoidance of or defense to the enforcement of this Agreement other than the express conditions set forth in this Agreement.

13.9 No Third-Party Beneficiaries.

None of the promises, rights or obligations contained in this Agreement shall inure to the benefit of any Person or entity not a Party to this Agreement; and no action may be commenced or prosecuted against any Party by any third party claiming to be a third-party beneficiary of this Agreement or the transactions contemplated hereby.

13.10 Severability.

If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any Party hereto under this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Agreement shall remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and (d) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

13.11 Independent Counsel.

The Parties acknowledge that they have been represented by independent counsel in connection with this Agreement, they fully understand the terms of this Agreement, and they voluntarily agree to those terms for the purposes of making a full compromise and settlement of the subject matter of this Agreement.

13.12 Entire Agreement.

This Agreement constitutes the complete and entire expression of agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous offers, promises, representations, negotiations, discussions, and communications, whether written or oral, which may have been made in connection with the subject matter of this Agreement, including, but not limited to, the First Amendment to the Ownership and Operation Agreement signed by the Parties and dated as of January 2, 2002, and the Second Amendment to the Ownership and Operation Agreement signed by the Parties and dated as of January 1, 2002, the terms of both of which have been incorporated into and superseded by this Agreement Any such representations or claims are hereby disclaimed. This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION

By: Olney Patt, Jr.
Name: Olney Patt, Jr.
Title: Chairman Tribal Council

PORTLAND GENERAL ELECTRIC COMPANY

By: Peggy Y. Fowler
Name: Peggy Y. Fowler
Title: Chairman, CEO and President

EXHIBIT 2

EXHIBIT A

Round Butte / Pelton Operating Guidelines

These guidelines are intended to guide the operation of Round Butte and Pelton under typical circumstances. Extreme or unusual conditions may require deviations from these guidelines.

GENERATOR GUIDELINES

	Round Butte			Pelton		
	Unit#1	Unit#2	Unit#3	Unit#1	Unit#2	Unit#3
Generating Limits (Mw)						
Maximum						
Peak*	105	105	105	36	38	38
Normal	100	100	100	35	35	35
Forbidden Zone						
Top	60	60	60	30	30	30
Bottom	40	40	40	20	20	20
Minimum	20	20	20	15	15	15
Most Efficient*						
Top	90	90	90	35	35	35
Bottom	70	70	70	30	30	30

Notes:

- The Peak Maximum is the highest available output available to meet peak demands and to make temporary deliveries of contingency reserves to replace lost generation within the Northwest Power Pool. The availability and duration of the Peak Maximum is dependent on acceptable generator and transformer winding temperatures. The Plant Operators will take manual control over the output of the units (i.e. no AGC control) when operating above the Normal Maximum.
- Units outputs shall be within their most efficient ranges whenever possible.

	Round Butte			Pelton		
	Unit#1	Unit#2	Unit#3	Unit#1	Unit#2	Unit#3
Nominal Ramp Rates (Mw/Minute)						
Upward	20	20	20	8	8	8
Downward	20	20	20	8	8	8
Nominal Start Times * (Minutes)						
Time to Synchronized	4	4	4	2-3	2-3	2-3
Time to Full Output	6-8	6-8	6-8	6-8	6-8	6-8
Suggested Minimum On/Off Time* (Minutes)	30	30	30	30	30	30
Suggested Daily Starts* (starts/day)	< 4	< 4	< 4	< 4	< 4	< 4

Notes:

- Start times can be reduced to roughly half the nominal times when rapid response is necessary. More than one unit can be started simultaneously.
- The suggested values for minimum on/off times and daily starts reflect the adverse impact that frequent output changes have on the life expectancy of the units. Minimizing unit output changes should be a factor in scheduling and dispatching plans for the Deschutes projects. It is recognized, however, that changing real-time conditions will often require us to operate units outside these suggested values.

RESERVOIR GUIDELINES

	ReReg	Pelton Forebay Elevations (feet)	R Butte Forebay
Absolute Maximum	1435.0	1580.0	1945.0*
Normal Maximum	1435.0	1578.0	1945.0*
6/15 - 9/15 Minimum	1415.0	1576.0	1944.0*
Normal Minimum	1415.0	1576.0	1935.0*
Absolute Minimum	1408.0	1573.0*	1865.0
Transit Time from Above (minutes)	20	20	N.A.

Notes:

- A Round Butte forebay Emergency Maximum of 1945.5 feet can be made available by the Project Manager for flood control use.
- Oregon Department of Fish & Wildlife research "fish traps" can be damaged by improper Round Butte forebay elevations.
- Boats at Pelton Park may become stranded on rocks if the Pelton forebay elevation drops below 1575.0 feet.
- The minimum Round Butte forebay elevation is influenced by run-off expectations based on precipitation, snow pack, and expected temperatures. 1935.0 feet reflects the minimum elevation for normal precipitation, snow pack, and temperatures.

REREG STREAMFLOW RELEASE GUIDELINES

	July 1st -- February 28th	March 1st -- June 30th
Minimum Release (cubic feet/second)	smaller of 3,240 cfs* , OR actual inflows** to Round Butte	smaller of 3,680 cfs* , OR actual inflows** to Round Butte

Notes:

- Minimum releases are set to avoid reading fluctuations below license restrictions of 3,000 cfs and 3,500 cfs respectively.
- Inflows measurements fluctuate by as much as 100-200 cfs during the course of a normal day. Values for actual inflow should be the average of inflow measurements over a period of several hours. Changes in actual inflow should be marked by a sustained shift in inflow measurements.

	May 15 - October 31	Other Times
Maximum Hourly Change* (feet/hour)	0.05	0.10
Maximum Daily Change* (feet/day)	0.20	0.40
Time of Day for Changes*	1 hour after sunset through 1 hour before sunrise	same as 5/15-10/31 whenever possible.

Notes:

- These ReReg change guidelines are intended to minimize downstream river fluctuations which impact recreational users and therefore the public's perception how well PGE is fulfilling its obligations as a steward of natural resources. These guidelines must be considered in scheduling and dispatching plans for the Deschutes projects, and shall be complied with whenever possible.
- It may be necessary during emergency conditions or sudden large changes in actual inflows to deviate from these guidelines. Deviations shall be preapproved by the Project Manager whenever possible.

EXHIBIT B

Administrative and General Costs

See Attached

Allocation of PGE Administration & General Overhead Expenses

The allocation of PGE administration and general overhead expense is labor based. Any PGE labor directly charged to the "project" would be used as the numerator and PGE total company labor as the denominator. The resulting percentage would be applied to the Corporate Governance Base Costs to determine the amount of A&G to allocate to the Pelton / Round Butte Project. The allocation percentage for the project is initially calculated on a budget basis at the beginning of the year and trued up at the end of the year for actuals. The monthly charges for A&G are based on the actual costs charged to the accounts listed below.

The accounts that make up the Corporate Governance Base Costs are listed below:

Account	Description of Account
N44012	Provide Executive Oversight And Guidance
N44029	General Administration
N44072	Purchase Standard Office Supplies
N44108	General Support - Operating & Maintain WTC
N44151	Process Financial & Operating Information
N44154	Reporting Other Internal Financial & Forecasting
N44155	Reporting Other External Financial & Operating Information
N44156	Perform Purchasing Function
N44157	Process Accounts Payable
N44159	Manage Budget & Planning Process
N44161	Provide Business Support
N44162	Perform Internal Auditing
N44163	General Support - Manage Financial Information
N44166	Operating Information Delivery Systems - Non-allocable
N44173	Maintain A&G Technology Series
N44174	Build/Enhance A&G Technology Systems
N44194	Maintain Copiers - Non-Allocable
N44208	Provide Printing Services
N44221	Provide Mail Services
N44222	External Production Services - Costs
N44223	Provide Corp Phone Support/Conference Room
N44224	Provide Travel Services
N44225	Provide Internal Communications
N44226	General Support - Provide Services to Employees
N44394	Corporate A&G Secondaries

EXHIBIT "B"

EXHIBIT C
Wholesale Power Purchase and Sale Agreement No. 02-03-A
And Wholesale Power Purchase and Sale Agreement No. 02-06-A

See Attached

WHOLESALE POWER

PURCHASE AND SALE AGREEMENT

NO. 02-06-A

BETWEEN

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

AND

PORTLAND GENERAL ELECTRIC COMPANY

EXHIBIT 2

WHOLESALE POWER PURCHASE AND SALE AGREEMENT
NO. 02-06-A
BETWEEN
THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON
AND
PORTLAND GENERAL ELECTRIC COMPANY

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WHOLESALE POWER PURCHASE AND SALE AGREEMENT
NO. 02-06-A
BETWEEN
THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON
AND
PORTLAND GENERAL ELECTRIC COMPANY

This Wholesale Power Purchase and Sale Agreement No. 02-06-A (this "Agreement") is entered into effective as of November 13, 2001, (the "Effective Date") by and between Portland General Electric Company, ("PGE" or "Buyer"), and The Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribes" or "Seller"). PGE and Seller may also be referred to individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, the Tribes desire to sell, and PGE desires to purchase, Firm Capacity and Energy from the Tribes in accordance with the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the premises and representations contained herein, the Parties agree hereby as follows:

ARTICLE I
Definitions

1.1 *Definitions*.

As used in this Agreement, the following terms shall have the meanings specified in this Section 1.1:

1.1.1 "*Affiliate*" shall mean, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this person, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.1.2 "*Agreement*" shall have the meaning set forth in the introductory paragraph above.

1.1.3 "*Bankruptcy Proceeding*" shall mean, with respect to a Party or entity, when such Party or entity (i) makes an assignment or any general arrangement for the benefit of creditors, (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed for 30 days after such filing, (iii) otherwise becomes bankrupt or insolvent (however evidenced) or (iv) is unable to pay its debts as they fall due.

EXHIBIT 2

1.1.4 "*Business Day*" shall mean a calendar day other than days on which Federal Reserve member banks in Portland, Oregon are authorized or required by Law to be closed.

1.1.5 "*Claims*" shall mean all claims or actions, threatened or filed and whether groundless, false or fraudulent, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to, during the term of, or after the termination of this Agreement.

1.1.6 "*Contract Day*" shall mean all hours ending 07:00:00 through 22:00:00 PPT, Monday through Saturday, inclusive, during the Delivery Term except for the six official NERC holidays.

1.1.7 "*Contract Price*" shall mean Thirty-six Dollars and Seventy Five Cents ($36.75) in U.S. dollars per MWh of Contract Quantity for four hundred (400) MWhs of Heavy Load Hour Firm Energy per Day delivered from July 1, 2002 to December 31, 2006, inclusive.

1.1.8 "*Contract Quantity*" means a minimum and a maximum of four hundred (400) MWhs of Heavy Load Hour Firm Energy per Day from July 1, 2002 through December 31, 2006.

1.1.9 "*Contract Term*" shall mean the term of this Agreement as set forth in Section 2.1.

1.1.10 "*Costs*" shall have the meaning defined in Section 7.2.5.

1.1.11 "*Day*" shall be defined as any 24-hour period commencing at 00:00 hours at the prevailing time at the Delivery Point.

1.1.12 "*Default*" shall have the meaning set forth in Section 7.1.

1.1.13 "*Defaulting Party*" shall have the meaning set forth in Section 7.1.

1.1.14 "*Delivery Point*" shall mean the Round Butte Bus Bar unless otherwise mutually agreed upon by the Parties.

1.1.15 "*Delivery Term*" shall have the meaning defined in Section 2.2.

1.1.16 "*Energy*" shall mean electric Energy expressed in megawatt hours (MWh).

1.1.17 "*Equitable Defenses*" shall mean any bankruptcy, insolvency, reorganization and other Laws affecting creditor's rights generally, and with regard to equitable remedies, the discretion of the court before which the proceedings to obtain same may be pending.

1.1.18 "*Fees*" shall mean Scheduling, imbalance or similar fees, charges or penalties imposed by third parties.

1.1.19 "*Firm Energy*" shall mean the only excuse for non-delivery or non-acceptance of Energy shall be the existence of an event of Uncontrollable Force, or the other Party's nonperformance.

1.1.20 "*Gains*" shall have the meaning defined in Section 7.2.5.

1.1.21 *"Heavy Load Hours"* shall mean hours ending 07:00:00 through 22:00:00 PPT, Monday through Saturday, except for NERC designated holidays.

1.1.22 "*Interest Rate*" means, for any date, two percent over the per annum rate of interest equal to the Prime Rate; provided, the Interest Rate shall never exceed the maximum lawful rate permitted by applicable Law.

1.1.23 "*Law*" means any law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction.

1.1.24 "*Legal Proceedings*" shall mean any suits, proceedings, judgments, rulings or orders by or before any court or any governmental authority.

1.1.25 *Light Load Hours"* shall mean all hours except for Heavy Load Hours.

1.1.26 "*Losses*" shall have the meaning defined in Section 7.2.5.

1.1.27 *"NERC"* means the North American Electric Reliability Council or any successor thereto.

1.1.28 "*Non-Defaulting Party*" shall have the meaning set forth in Section 7.1.1.

1.1.29 *"Ownership and Operation Agreement"* means the Agreement for the Ownership and Operation of the Pelton and Round Butte Dams and generating facilities between the Tribes and PGE.

1.1.30 *"PPT"* means Pacific Prevailing Time, that is, prevailing standard time or daylight savings time in the pacific time zone, as applicable.

1.1.31 "*Primary Transmission System*" shall mean the facilities immediately connected on each side of the Delivery Point through which Energy is Scheduled to be delivered or received pursuant to this Agreement.

1.1.32 "*Primary Transmission System Operator*" shall mean the entity or entities operating the Primary Transmission System.

1.1.33 "*Replacement Price*" shall have the meaning set forth in Section 6.1.1.

1.1.34 "*Sale Price*" shall have the meaning set forth in Section 6.1.2.

1.1.35 "*Schedule*" or "*Scheduled*" or "*Scheduling*" shall mean the act of Seller or Buyer of notifying, requesting and confirming to each other the quantity of Energy to be delivered on any given Day or Days during a Delivery Period at a specified Delivery Point.

1.1.36 "*Termination Payment*" shall have the meaning set forth in Section 7.2.2.

1.1.37 "*Transmission Providers*" shall mean collectively the entities providing transmission services for Buyer or Seller to or from the Delivery Point. Transmission Providers shall include Primary Transmission System Operators, sending and receiving Control Areas, intermediate Control Areas and other entities that own transmission or control transmission services provided by others.

1.1.38 "*Uncontrollable Force*" shall mean an event not anticipated as of the Effective Date, which is not within the reasonable control of the Party (or in the case of third party obligations or facilities, the third party) claiming suspension (the Claiming Party), and which by the exercise of due diligence the Claiming Party, or third party, is unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefor.

The only transmission-related events which can qualify as events for which performance of any obligation under this Agreement may be excused due to an Uncontrollable Force are events on a Primary Transmission System which directly affects firm transmission to or from the Delivery Point. Such events include, without limitation (except as otherwise provided herein), the loss, interruption or curtailment (in accordance with a Primary Transmission System Operator's applicable tariffs, applicable governing agreements or standard practice) of firm transmission on the Primary Transmission System delivering Energy to the Delivery Point or the Primary Transmission System receiving Energy from the Delivery Point.

As applied to any of the services provided hereunder, Uncontrollable Force specifically excludes the following: (i) loss of Buyer's markets or Buyer's inability economically to use or resell Energy purchased hereunder; (ii) Seller's inability to obtain the Contract Quantity from any particular generation resource or third party supplier: (iii).Seller's inability economically to use or resell Energy purchased hereunder; (iv) drought; (v) regulatory disallowance of the pass through of the costs of Energy or related costs; (vi) increases or decreases in Energy prices; (vii) loss, interruption or curtailment of a source or sources of supply; and (viii) the loss, interruption or curtailment, for any reason, of transmission service on systems other than on the Primary Transmission System.

1.2 *Interpretations*.

In this Agreement, unless a clear contrary intention appears: (i) the singular number includes the plural number and vice versa; (ii). reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity; (iii) reference to any gender includes each other gender; (iv) reference to any

EXHIBIT 2

agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (v) reference to any Article, Section, Schedule or Exhibit means such Article, Section, Schedule or Exhibit to this Agreement, and references in any Article, Section, Schedule, Exhibit or definition to any clause means such clause of such Article, Section, Schedule, Exhibit or definition; (vi) "hereunder," "hereof," "hereto," "herein" and words of similar import are references to this Agreement as a whole and not to any particular Section or other provision hereof or thereof; (vii) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; (viii) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including;" and (ix) reference to any law (including statutes and ordinances) means such law as amended, modified codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder.

ARTICLE II
Term and Termination

2.1 *Contract Term*.

Subject to the provisions of Section 15.4 regarding winding-up arrangements, the term of this Agreement (the "Contract Term") shall begin on July 1, 2002 and shall remain in effect until December 31, 2006; *provided, however*, that this Agreement shall continue notwithstanding such termination until such time as all liabilities, obligations and rights related to or associated with any transactions entered into prior to the date of termination are complete and fully and finally discharged or have expired.

2.2 *Delivery Term*.

Delivery of Energy hereunder shall commence at 6:00:00 PPT on July 1, 2002 and shall end at 22:00:00 PPT on December 31, 2006.

ARTICLE III
Representations and Warranties

3.1 *Representations and Warranties*.

On the Effective Date of this Agreement each Party represents and warrants to the other Party that:

3.1.1 With regard to and the Tribes:

3.1.1.1 The Tribes are a federally recognized Indian tribe organized under a constitution and bylaws ratified by the members of the Tribes on December 18, 1937, and approved by the Assistant Secretary of the Interior of the United States on February 14, 1938, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), as

EXHIBIT 2

amended by the Act of June 15, 1935 (49 Stat. 378). The Tribes ratified on April 23, 1938 a corporate charter issued to them by Interior pursuant to Section 17 of such Act of June 18, 1934. Pursuant to the foregoing authorities the Tribes exercise governmental and corporate powers over Tribal Lands within the boundaries of the Warm Springs Indian Reservation as described in that certain Treaty between the United States of America and the Tribes and Bands of the Middle Oregon executed June 25, 1855;

3.1.1.2 The Tribes have full power and authority to enter into this Agreement, to perform their obligations hereunder and to consummate the transactions contemplated hereby, which transactions have been duly and validly authorized by the members of the Tribes and the Tribal Council of the Tribes and no other tribal action on the part of the Tribes is necessary. This Agreement has been duly and validly executed and delivered by the Tribes and this Agreement constitutes and upon the execution by the Tribes and PGE, will constitute a legal, valid and binding obligation of the Tribes enforceable against the Tribes in accordance with the terms, except as the same may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors generally, or by general equitable principles;

3.1.1.3 The execution and delivery by the Tribes of this Agreement, the performance by the Tribes of their obligations under this Agreement, the consummation of the transactions contemplated hereby will not: (1) conflict with or result in a violation or breach of any of the terms, conditions or provisions of the constitution, bylaws or corporate charter of the Tribes; (2) require any consent, approval, authorization or permit or filing with or notification to any Governmental Authority; (3) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which the Tribes are a party or by which any of its assets and properties may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained; or (4) conflict with or result in a violation or breach of any term or provision of any law or order applicable to the Tribes, including laws or regulations promulgated by the Tribes; and

3.1.1.4 There are no actions or proceedings pending or, to the knowledge of the Tribes, threatened against, relating to or affecting the Tribes which could reasonably be expected to result in the issuance of an order retraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement.

3.1.2 With regard to PGE:

3.1.2.1 It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in each jurisdiction in which a transaction will be performed by it;

3.1.2.2 It has all regulatory authorizations necessary for it to legally enter into and perform its obligations under this Agreement;

3.1.2.3 The execution, delivery and performance of this Agreement is within its powers, has been duly authorized by all necessary action and does not violate any terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it;

3.1.2.4 This Agreement when entered into in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

3.1.2.5 There are no Bankruptcy Proceedings pending or being contemplated by it or, to its knowledge, threatened against it; and

3.1.2.6 There are no Legal Proceedings that materially adversely affect its ability to perform its obligations under this Agreement.

ARTICLE IV
Obligations and Deliveries

4.1 *Firm Energy.*

Upon the commencement of deliveries pursuant to Section 2.2 through the remaining term of this Agreement, Seller shall make available to Buyer, and Buyer shall purchase the Contract Quantity. At Buyer's request, Energy may be scheduled for delivery in Light Load Hours and Heavy Load Hours at any rate, *provided however*, the rate shall not be in conflict with the Seller's scheduling rights contained in Section 4.2 and 5.6 of the Ownership and Operation Agreement. Seller's obligation to deliver the Contract Quantity shall be absolute and the only excuse for failure of Seller to deliver the Contract Quantity shall be an Uncontrollable Force or Buyer's failure to perform.

4.2 *Transmission Losses.*

Seller shall deliver 20 KWh to the Delivery Point for each MWh of Contract Quantity purchased under this Agreement. Such deliveries shall be full compensation for transmission losses assumed to be incurred by Buyer in transmitting the Contract Quantity from the Delivery Point to PGE's Bethel substation.

4.3 *Notification of Scheduled Deliveries.*

Seller shall notify Buyer of scheduled deliveries in accordance with Section 4.2 of the Ownership and Operation Agreement. In the event Seller supplies the Contract Quantity from a source other than the Pelton Round Butte generation facilities or the Pelton Reregulating Dam, unless otherwise agreed, Seller shall be obligated to Schedule with the appropriate Transmission Providers or arrange for Scheduling service and to deliver to the Primary Transmission System, which is delivering Energy to the Delivery Point, and Buyer shall be obligated to Schedule with the appropriate Transmission Providers or arrange for a Scheduling service and to receive from the Primary Transmission System, which is receiving Energy at the Delivery Point, the Contract

Quantity during each Day in accordance with the Transmission Provider's or Primary Transmission System Operator's notice requirements.

ARTICLE V
Title and Risk

5.1 *Title and Risk of Loss.*

Title to and risk of loss from Energy shall pass from Seller to Buyer at the Delivery Point.

5.2 *Seller Warranties.*

Seller warrants that it will transfer to Buyer good title to the Energy, free and clear of all liens, claims and encumbrances arising or attaching prior to the Delivery Point and that its sale is in compliance with all applicable laws and regulations. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED.

ARTICLE VI
Nonperformance and Remedies

6.1 *Damages for Failure to Deliver or Receive.*

Without limiting the rights of the non-breaching Party under the provisions of this Article 6 or otherwise, if either Party fails to deliver or receive or to provide, as the case may be, the quantities of Energy due under this Agreement, (thereby becoming the non-performing Party) the non-breaching Party shall, as promptly as practicable, but no longer than twenty-four (24) hours, give notice of such nonperformance to the non-performing Party. If the Parties agree and if commercially reasonable to do so in the context of its outstanding obligations, the non-breaching Party may allow the non-performing Party to remedy such nonperformance through an increase in subsequent hourly deliveries or receipts, as appropriate. If such a cure is not allowed by the non-breaching Party, or if allowed is not effected, the non-breaching Party shall be entitled to receive from the non-performing Party an amount calculated as follows (unless performance is excused by Uncontrollable Force):

6.1.1 In the event that Seller fails to Schedule and deliver all or part of the Contract Quantity, where such failure was not agreed to or was not caused by Uncontrollable Force or by Buyer, Seller shall pay Buyer (on a date payment would otherwise be due from Buyer under this Agreement) an amount for each megawatt hour (MWh) of such deficiency equal to the positive difference, if any, of (i) the "Replacement Price", which is the price at which Buyer is, or would be, able to obtain comparable supplies of power at a commercially reasonable price (adjusted to reflect differences in transmission costs, if any) minus (ii) the Contract Price; *provided, however*, in no event shall any such amounts include any penalties, ratcheted demand or similar charge.

6.1.2 In the event that PGE fails to Schedule and to receive all or part of the Contract Quantity, where such failure was not agreed to or was not caused by Uncontrollable Force or by Seller, Buyer shall pay Seller (on a date payment would otherwise be due to Seller under this Agreement) an amount for each MWh of such deficiency equal to the positive difference, if any, of (i) the Contract Price minus (ii) the "Sales Price", which is the price at which, if any, Seller resells or otherwise disposes of all or part of the Contract Quantity not received by Buyer, *provided, however*, in no event shall any such amounts include any penalties, ratcheted demand or similar charge.

6.1.3 If payment pursuant to 6.1.1 and 6.1.2 is not made on a date payment would otherwise be due, the non-performing Party shall pay any amount due from it under this Article 6 within two (2) Business Days after the demand therefor is made.

ARTICLE VII
Default

7.1 *Default*.

A Default shall mean with respect to a Party (Defaulting Party):

7.1.1 Except as otherwise specified in the Ownership and Operation Agreement, as amended, the failure by the Defaulting Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within two (2) Business Days after written notice of such failure is given to the Defaulting Party by the other Party (Non-Defaulting Party) and provided the payment is not the subject of a good faith dispute; or

7.1.2 Any representation or warranty made by the Defaulting Party herein shall at any time prove to be false or misleading in any material respect; or

7.1.3 Making a general assignment or arrangement for the benefit of creditors; or

7.1.4 The failure by the Defaulting Party to perform any covenant set forth in this Agreement (other than the events that are otherwise specifically covered in this Article 7) or its obligations to deliver or receive Energy, a remedy for which is provided in Article 6, and such failure is not excused by Uncontrollable Force or cured within five (5) Business Days after written notice thereof to the Defaulting Party; or

7.1.5 The inability to pay its debts as they fall due; or

7.1.6 The Defaulting Party shall be subject to a Bankruptcy Proceeding.

7.2 *Remedies*.

In the event of a Default by the Tribes,

EXHIBIT 2

7.2.1 If a Default is limited to a failure of the Tribes to make payments, the Tribes' generation associated with their ownership share of the Pelton Dam and Round Butte Dam shall be sold during the period of Default for the benefit of PGE and the proceeds applied to the amounts owed by the Tribes.

7.2.2 Early Termination. Notwithstanding and in addition to any other provision of this Agreement, and except as provided below, if a Default occurs with respect to a Defaulting Party at any time during the term of this Agreement, the Non-Defaulting Party may, for so long as the Default is continuing:

7.2.2.1 Establish a date (which date shall be between one (1) and five (5) Business Days after the Non-Defaulting Party delivers notice) (Early Termination Date) on which the Agreement will terminate; and

7.2.2.2 Withhold any payments due in respect of this Agreement; *provided, however*, upon the occurrence of any Default listed in Sections 7.1.3, 7.1.5 or 7.1.6 as it may apply to any Party, this Agreement in respect thereof shall automatically terminate, without notice, and without any other action by either Party as if an Early Termination Date had been declared immediately prior to such event.

7.2.3 Termination Payment. If an Early Termination Date has been designated, the Non-Defaulting Party shall in good faith calculate its Gains, Losses and Costs resulting from the termination of the Agreement. The Gains, Losses and Costs shall be determined by comparing the value of the remaining term, Contract Quantity and Contract Prices remaining over the Contract Term had it not been terminated to the equivalent quantities and relevant market prices for the remaining term either quoted by a bona fide third-party offer or which are reasonably expected to be available in the market under a replacement contract for the Agreement. To ascertain the market prices of a replacement contract, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Power futures contracts, quotations from leading dealers in Energy swap contracts and other bona fide third party offers, all adjusted for the length of the remaining term and difference in transmission. It is expressly agreed that a Party shall not be required to enter into replacement transactions in order to determine the Termination Payment, as defined below.

7.2.4 The Non-Defaulting Party shall aggregate such Gains, Losses and Costs with respect to the Agreement into a single net amount (Termination Payment) and notify the Defaulting Party. If the Non-Defaulting Party's aggregate Losses and Costs exceed its aggregate Gains, the Defaulting Party shall, within five (5) Business Days of receipt of such notice, pay the net amount to the Non-Defaulting Party, which amount shall bear interest at the Interest Rate from the Early Termination Date until paid. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of the Agreement, the Non-Defaulting Party shall pay such excess to the Defaulting Party on or before the later of: (i) ten (10) days after the end of the month ending on or after the Early Termination Date or (ii) five (5) Business Days after receipt by the Defaulting Party of the Non-Defaulting Party's notice given above, which amount shall bear interest at the Interest Rate from the Early Termination Date until paid. If the Defaulting Party disagrees with the calculation of the Termination

Payment, the issue shall be submitted to arbitration in accordance with the arbitration procedures set forth in Article 14 and the resulting Termination Payment shall be due and payable within three (3) Business Days after the award.

7.2.5 As used herein with respect to each Party: (i) "Costs" shall mean, with respect to a Party, brokerage fees, commissions and other similar Transaction Costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the terminated Agreement, and attorney fees, if any, incurred in connection with enforcing its rights under this Agreement; (ii) "Gains" shall mean, with respect to a Party, an amount equal to the present value of the economic benefit (exclusive of Costs), if any, to it resulting from the termination of its obligations with respect to the terminated Agreement, determined in a commercially reasonable manner; and (iii) "Losses" shall mean, with respect to a Party, an amount equal to the present value of the economic loss (exclusive of Costs), if any, to it resulting from the termination of its obligations with respect to the terminated Agreement, determined in a commercially reasonable manner. At the time for payment of any amount due under this Section 7.2, each Party shall pay to the other Party all additional amounts payable by it pursuant to this Agreement, but all such amounts shall be netted and aggregated with any Termination Payment payable hereunder.

7.3 *Other Remedies.*

7.3.1 Notwithstanding any other provision of this Agreement, if Seller or Buyer fails to pay to the other Party any amount when due, the aggrieved Party shall have the right to: (i) suspend performance under the Agreement until such amounts plus interest at the Interest Rate have been paid and/or (ii) exercise any remedy available at Law or in equity to enforce payment of such amount plus interest at the Interest Rate; provided, however, if the non-paying Party, in good faith, shall dispute the amount of any such billing or part thereof and shall pay such amounts as it concedes to be correct, no suspension shall be permitted.

7.4 *Costs for Exercise of Rights.*

After the occurrence of a Default, the Defaulting Party shall be responsible for all reasonable costs and expenses actually incurred by the Non-Defaulting Party in connection with the exercise of its rights under this Agreement including, without limitation, reasonable attorneys' fees (including appeal) and disbursements.

7.5 *Other Events.*

In the event PGE is regulated by a federal, state or local regulatory body, and such body shall disallow all or any portion of any costs incurred or yet to be incurred by PGE under any provision of this Agreement, such action shall not operate to excuse PGE from performance of any obligation nor shall such action give rise to any right of PGE to any refund or retroactive adjustment of the Contract Price provided in this Agreement. Notwithstanding the foregoing, if a Party's activities hereunder become subject to regulation of any kind whatsoever under any Law to a greater or different extent than that existing on the Effective Date and such regulation either:

(i) renders this Agreement illegal or unenforceable in its entirety; or (ii) materially adversely affects the business of the affected Party, with respect to its financial position or otherwise, then in the case of (i) above, either Party, and in the case of (ii) above, the affected Party, shall at such time have the right to declare an Early Termination Date in accordance with the provisions hereof; provided, notwithstanding the rights of the Parties to declare an early Termination Date as stated above, the affected Party shall be liable for payment of the Termination Payment calculated by the non-affected Party as provided in Section 7.2. Notice that an Early Termination pursuant to Section 7.2 has occurred shall be given by the non-affected Party to the affected Party before the close of business on the Business Day following such liquidation, provided that failure to give such notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the affected Party against the non-affected Party.

7.6 *Set Off of Accounts.*

As an alternative to its rights under Sections 7.2 and 7.3 and without prejudice to its exercise of its rights under such Sections at any time, the Non-Defaulting Party may from time to time set off any or all amounts which the Defaulting Party owes to it (whether under this Agreement or otherwise and whether or not then due) against any or all amounts which it owes to the Defaulting Party (whether under this Agreement or otherwise and whether or not then due) provided that any amount not then due which is included in such setoff shall be discounted to the prime rate (as disclosed by U.S. Bank from time to time) at the time of setoff (to take account of the period between the date of setoff and the date on which such amount would have otherwise been due).

ARTICLE VIII
Uncontrollable Force

8.1 *Performance Excused.*

Except with regard to a Party's obligation to make payments when due, neither Party shall be considered to be in Default in the performance of any obligations under this Agreement when a failure of performance shall be due to an Uncontrollable Force. In the event either Party hereto is prevented, wholly or in part, by an Uncontrollable Force from carrying out its obligations under this Agreement, it is agreed that upon such Party's giving notice and full details of such Uncontrollable Force as promptly as practicable, but not later than twenty-four (24) hours after the discovery of the effects of an Uncontrollable Force or the occurrence of the cause relied on, whichever is later, the Party giving such notice shall be relieved of its obligations insofar as they are affected by such Uncontrollable Force during the continuance of any inability so caused from its inception but for no longer period. The Party claiming Uncontrollable Force shall remedy the Uncontrollable Force with all reasonable dispatch.

8.2 *Exclusions.*

Neither Party shall be entitled to the benefit of this Article 8 under any of the following circumstances:

8.2.1 To the extent that the inability was caused by the negligence of the Party claiming relief;

8.2.2 To the extent that the inability was caused by the Party claiming relief having failed to remedy the condition acting commercially reasonably and with reasonable dispatch;

8.2.3 To the extent the event constituting Uncontrollable Force was intentionally initiated or intentionally acquiesced in by the Party claiming relief for the purpose of allowing that Party to claim Uncontrollable Force; or

8.2.4 If the inability was caused by a Party's lack of funds.

8.3 *Notice*.

The Party giving notice of Uncontrollable Force shall state in the notice required in Section 8.1, or if not practicable, in a second notice delivered by facsimile, telecopier or in writing not more than twenty-four (24) hours after the initial notice, the nature of the Uncontrollable Force, the date of its commencement and the anticipated duration if ascertainable and the actions being taken to mitigate the effects of the Uncontrollable Force. If requested by the other Party, the Party claiming Uncontrollable Force shall provide a written report on the event of Uncontrollable Force including the cause, the actions taken to mitigate its effects and other information as may be reasonably requested by the other Party to evaluate the claim of Uncontrollable Force.

8.4 *Settlements*.

It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and that the above requirement of the use of commercially reasonable efforts in restoring normal operating conditions shall not require the settlement of strikes or lockouts by acceding to the terms of the opposing Party when such is inadvisable in the discretion of the Party having the difficulty.

ARTICLE IX
Waiver of Sovereign Immunity

The Tribes acknowledge and agree that in entering into this Agreement they may incur obligations to PGE, and PGE's successors and assigns, and may become liable to these parties for injunctive or declaratory relief or for damages. The Tribes further acknowledge that PGE would not enter into this Agreement with the Tribes if the Tribes could defeat or hinder enforcement against them of the rights granted to PGE by claiming sovereign immunity. THIS WAIVER OF THE SOVEREIGN IMMUNITY OF THE TRIBES FROM SUIT OR ACTION IS ADOPTED PURSUANT TO THE TERMS OF WARM SPRINGS TRIBAL CODE CHAPTER 30 AND SHALL BE STRICTLY CONSTRUED AND LIMITED TO ITS SPECIFIC TERMS AND THE SPECIFIC WAIVER GRANTED. THE TRIBES HEREBY CONSENT TO SUIT, ARBITRATION, ENFORCEMENT AND COLLECTION OF JUDGMENTS, AWARDS,

INJUNCTIONS AND DECLARATORY JUDGMENTS AS TO ANY OBLIGATIONS ARISING OUT OF THIS AGREEMENT AND ANY TRANSACTION HEREUNDER. THE TRIBES FURTHER EXPRESSLY WAIVE, WITHOUT LIMITATION, ANY CLAIM OR ASSERTION OF SOVEREIGN IMMUNITY FROM SUIT IN ACTIONS (A) TO INTERPRET OR ENFORCE ANY PROVISION OF OR RIGHTS GRANTED IN THIS AGREEMENT, (B) TO SEEK JUDGMENT FOR MONETARY OBLIGATIONS ARISING UNDER THIS AGREEMENT AND ANY TRANSACTION HEREUNDER AND (C) TO ENFORCE AND COLLECT ANY JUDGMENT IN ANY SUIT OR ARBITRATION CONCERNING OR ARISING OUT OF THIS AGREEMENT AND ANY TRANSACTION HEREUNDER.

ARTICLE X
Limitations of Remedies, Liability and Damages

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

THE PARTIES AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON CONTRACT LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL (INCLUDING BUT NOT LIMITED TO REPLACEMENT POWER COSTS), INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO, HOWSOEVER CAUSED.

THE PARTIES AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON TORT LAW OR OTHERWISE, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO REPLACEMENT POWER COSTS), INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM A PARTY'S SOLE, JOINT OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE OR RECKLESS CONDUCT.

TO THE EXTENT ANY PAYMENT REQUIRED TO BE MADE UNDER THIS AGREEMENT IS AGREED BY THE PARTIES TO CONSTITUTE LIQUIDATED DAMAGES, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT

OR IMPOSSIBLE TO DETERMINE AND THAT SUCH PAYMENT CONSTITUTES A REASONABLE APPROXIMATION OF SUCH DAMAGES, AND NOT A PENALTY.

ARTICLE XI
Duty to Mitigate Damages

11.1 *Mitigation.*

Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

ARTICLE XII
Taxes

12.1 *Taxes.*

The Contract Price shall include full reimbursement for, and Seller is liable for and shall pay, or cause to be paid, or reimburse Buyer if Buyer has paid, all taxes applicable to the delivery of Energy arising prior to the Delivery Point. If Buyer is required to remit such tax, the amount shall be deducted from any sums due to Seller. Seller shall indemnify, defend and hold harmless Buyer from any Claims for such taxes. The Contract Price does not include reimbursement for, and Buyer is liable for and shall pay, cause to be paid, or reimburse Seller if Seller has paid, all taxes applicable to the delivery of Energy arising at and from the Delivery Point, including any taxes imposed or collected by a taxing authority with jurisdiction over Buyer. Buyer shall indemnify, defend and hold harmless Seller from any Claims for such taxes. Either Party, upon written request of the other, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if either Party is exempt from taxes, and shall use reasonable efforts to obtain and cooperate with obtaining any exemption from or reduction of any tax. Each Party shall use reasonable efforts to administer this Agreement and implement the provisions in accordance with the intent to minimize taxes.

ARTICLE XIII
Billing and Payment

13.1 *Billing and Payment.*

On or before the tenth (10th) day of each month following an Invoice Month, Seller shall send to Buyer an invoice setting forth the quantity of Energy which was Scheduled, the Contract Price or taxes, if applicable, Seller is obligated by Law to collect from Buyer, and the total amount due from Buyer.

13.2 *Method of Payment.*

PGE shall remit the amount due by wire or electronic fund transfer, pursuant to Seller's invoice instructions, by the later of the twentieth (20th) day of the calendar month in which the

invoice was rendered or the tenth (10th) calendar day following the presentation of such invoice, provided that if such day is not a Business Day, payment is due on the next Business Day following that date. Wire or electronic fund transfers shall be by FEDWIRE or other electronic transfer service that assures immediately available funds to Seller on no later than the due date.

13.3 *Overdue Payments*.

Overdue payments shall bear interest at the Interest Rate from and including the due date to, but excluding the date of, payment on the unpaid portion.

ARTICLE XIV
Arbitration

14.1 *Scope of Disputes to be Arbitrated*.

Any dispute or need for an interpretation arising out of Article 6 and Article 7 of this Agreement pertaining to the calculation of a Termination Payment or a payment required thereunder shall be submitted to binding arbitration. DISPUTES OTHER THAN THOSE SPECIFICALLY REFERENCED IN THE FOREGOING SENTENCE SHALL BE SUBMITTED TO ARBITRATION PURSUANT TO THIS ARTICLE 14.

14.2 *Arbitration Process*.

Arbitration pursuant to this Article 14 shall be by one arbitrator who has not previously been employed by either Party, and does not have a direct or indirect interest in either Party or the subject matter of the arbitration. Such arbitrator shall either be as mutually agreed by the Parties within fourteen (14) days after written notice from either Party requesting arbitration, or failing agreement, shall be selected under the expedited rules of the Portland Arbitration Service (the "PSA"). Such arbitration shall be held in Portland, Oregon. The rules of the PSA shall apply to the extent not inconsistent with the rules herein specified. Either Party may initiate arbitration by written notice to the other Party and the arbitration shall be conducted according to the following: (i) not later than seven (7) days prior to the hearing date set by the arbitrator, each Party shall submit a brief with a single proposal for settlement; (ii) the hearing shall be conducted on a confidential basis without continuance or adjournment; (iii) the arbitrator shall be limited to selecting only one of the two proposals submitted by the Parties; (iv) each Party shall divide equally the cost of the arbitrator and the hearing and each Party shall be responsible for its own expenses and those of its counsel and representatives; and (v) evidence concerning the financial position or organizational make-up of the Parties, any offer made or the details of any negotiation prior to the arbitration and the cost to the Parties of their representatives and counsel shall not be admissible.

EXHIBIT 2

ARTICLE XV
Miscellaneous

15.1 *Assignment of Agreement.*

Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party (which consent shall not unreasonably be withheld); *provided, however*, either Party may, without consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an Affiliate of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by all terms and conditions hereof.

15.2 *Limitations on Recourse.*

The Tribes hereby pledge all their Pelton Round Butte Project Rights ("Project Rights"), as they are defined in the Ownership and Operation Agreement to satisfy any and all obligations they may have to PGE under this Agreement and otherwise with respect to the Pelton Round Butte Project. PGE agrees to seek satisfaction of any Claims it may have against the Tribes under this Agreement initially from the Tribes' Project Rights and to the extent the Tribes' Project Rights are insufficient to satisfy PGE's outstanding claims, PGE shall next seek satisfaction from the Tribes' rights in the Pelton Reregulating Dam generation. In the event the a Claim has not been satisfied as of the expiration of the term of this Agreement, PGE's rights pursuant to this Section 15.2 shall continue notwithstanding the termination of this Agreement until such time as all liabilities, obligations and rights related to or associated with the Agreement prior to the date of termination are satisfied. The provisions of this Section 15.2 do not limit the rights of either the Tribes or PGE to seek (a) specific performance of this Agreement, (b) other injunctive relief or (c) any other form of non-monetary relief.

15.3 *Audit Right.*

Each Party shall have the right, at its sole cost and expense, upon reasonable notice and at reasonable times, to examine the books and records of the other Party to the extent reasonably necessary to verify the accuracy of any billing statement, payment demand, charge, payment or computation made under this Agreement during the immediately preceding twenty-four (24) months. For all transactions pursuant to this Agreement, the Parties shall retain all relevant records for twenty-four (24) months following each Delivery Period.

15.4 *Winding Up Arrangements.*

All indemnity and audit rights shall survive the termination of this Agreement. All obligations provided in this Agreement shall remain in effect following the expiration or termination of this Agreement to the extent necessary to give full force and effect to the rights and obligations undertaken by the Parties herein.

15.5 *Notices*.

All notices, requests, statements or payments shall be made as specified in Exhibit A. Notices required to be in writing shall be delivered by letter, facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the Business Day on which it was transmitted or hand delivered (unless transmitted or hand delivered after close in which case it shall be deemed received at the close of the next Business Day). Notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

15.6 *Governing Law*.

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW, EXCEPT TO THE EXTENT SUCH OREGON LAWS MAY BE PREEMPTED BY THE LAWS OF THE UNITED STATES OF AMERICA.

15.7 *Waivers*.

No waiver by either Party, either express or implied, of any one or more Defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any future Default or Defaults, whether of a like or a different character. Failure by a Party to enforce any of the terms, covenants, conditions or other provisions of this Agreement at any time shall not in any way affect, limit, modify or waive that Party's right thereafter to enforce strict compliance with every term, covenant or condition herein, notwithstanding any course of dealing or custom of the trade.

15.8 *Severability*.

If any provision of this Agreement or the application thereof to any Party or circumstance shall be unenforceable to any extent, the remainder of this Agreement and the application of such provisions to the other Party or circumstances shall not be affected thereby and shall be enforceable to the greatest extent permitted by Law.

15.9 *Section Headings*.

Section headings are for the convenience of reference only and shall not affect the interpretation of this Agreement.

15.10 *No Rights to Third Parties.*

The provisions of this Agreement shall not impart rights enforceable by any person or organization not a Party or bound as a Party except for a permitted successor assignee of a Party bound by this Agreement.

15.11 *Parties Acting for Own Account.*

The Parties acknowledge that each Party is acting for its own account, and that each has made its own independent decision to enter into this Agreement and to whether this Agreement are appropriate or proper for it based upon its own judgment and upon advice from such advisors as it has deemed necessary. Each Party warrants that it is capable of evaluating and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms, conditions and risks of this Agreement. Neither Party is relying on any communications (written or oral) of the other Party as investment advice or as a recommendation to enter into this Agreement. The Parties acknowledge that neither is acting as a fiduciary, as an advisor or in an agency capacity with respect to the other Party.

15.12 *Entire Agreement; Amendment.*

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersedes all prior agreements with respect heréto. This Agreement may be modified only by a written agreement executed by both Parties hereto.

15.13 *Conditions of Performance.*

Performance by any Party under this Agreement is conditioned on performance then due by the other Party hereto under this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

PORTLAND GENERAL ELECTRIC COMPANY

By: Ronald W. Jones
Name: RONALD W JONES
Title: VICE PRESIDENT

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

By: Olney Patt, Jr.
Name: Olney Patt, Sr. Jr.
Title: Tribal Council Chairman

EXHIBIT A
to the
Wholesale Power Purchase and Sale Agreement
between
The Confederated Tribes of the Warm Springs Reservation
and
Portland General Electric Company

NOTICES AND PAYMENT

Portland General Electric Company:

NOTICES & CORRESPONDENCE
Portland General Electric Company
Attn: Power Operations
121 SW Salmon Street
Portland, OR 97204
Fax No.: (503) 464-2605
Phone No.: (503) 464-7358

INVOICES:
Portland General Electric Company
Attn: Accounts Payable
121 SW Salmon Street
Portland, OR 97204

PAYMENTS (US Dollars)
U.S. Bank
for Portland General Electric
ABA Routing No.: 123000220
Account No.: 153600063512

Confirmation: Cash Management
Phone No.: 503-464-7085 or 503-464-7760

Seller:

NOTICES & CORRESPONDENCE

_____
Attn: _____
_____
_____
Fax No.: _____
Phone No.: _____

INVOICES

_____
Attn: _____
_____
_____
Fax No: _____
Phone No.: _____

PAYMENTS

_____
ABA No.: _____
Account No.: _____
Confirmation: _____
Phone No.: _____

or to such other address as Seller or PGE shall from time to time designate by letter properly addressed.

EXHIBIT D

PROMISSORY NOTE

EXHIBIT D

PROMISSORY NOTE

January 1, 2002

FOR VALUE RECEIVED, the undersigned Confederated Tribes of the Warm Springs Reservation of Oregon, a federally recognized Indian tribe having a Constitution and Bylaws and Corporate Charter adopted pursuant to the terms of the Indian Reorganization Act, including its governing body, the Tribal Council ("Maker"), promises to pay to the order of Portland General Electric Company, an Oregon corporation ("Payee"), the principal amount of Twenty Four Million Nine Hundred and Six Dollars ($24,906,000.00), plus or minus any Adjustment Amount as set forth in Section 1 hereof, plus interest on the unpaid principal balance hereof at the rate and in the manner described in this Promissory Note (this "Note").

This Note has been executed and delivered pursuant to and in accordance with the terms and conditions of the Ownership and Operation Agreement for the Pelton and Round Butte Dams and Generating Facilities, as Amended and Restated, dated as of January 1, 2002, by and between Maker and Payee (the "Ownership Agreement"), and is subject to the terms and conditions thereof. Capitalized terms not otherwise defined in this Note have the meanings specified in the Ownership Agreement.

1. Adjustment to Principal Amount. Any Adjustment Amount payable by Payee under Section 3.4 of the Asset Purchase Agreement shall be deemed to be a reduction in the principal amount hereunder, and any Adjustment Amount payable by Maker under said Section 3.4 shall be deemed to be an increase in the principal amount hereunder, in each case as of the date hereof. The parties shall sign an addendum to this Note promptly following the final determination of the Adjustment Amount setting forth the adjusted principal and monthly payments hereunder.

2. Interest Rate. The outstanding principal balance hereof shall bear interest at the rate of eight and one half percent (8.5%) per annum until the day that is one (1) year from the date of this Note, and thereafter at the rate of twelve and seventy-one one-hundredths percent (12.71%) per annum. Interest hereunder shall be compounded annually and shall be determined on the basis of a 365- or 366-day year, as applicable.

3. Payment Schedule. The outstanding principal of and interest on this Note shall be payable in monthly payments of $542,641.36, adjusted as necessary to reflect level amortization of the adjusted principal amount hereof determined in accordance with Section 1 of this Note. Payments shall commence on February 1, 2002, and shall be made on the same day of each and every month thereafter until the earlier of January 1, 2007 or the day prior to

EXHIBIT 2

any sale or transfer of Maker's Ownership Share (the "Maturity Date"), at which time the entire outstanding principal balance of this Note, together with all principal, accrued and unpaid interest, late charges and other amounts that may become payable under this Note shall be due and payable in full. In the event that Maker has made one or more payments hereunder prior to the final determination of any Adjustment Amount, the first monthly payment subsequent to such final determination shall be increased or decreased, as applicable, to account for the amount by which Maker has overpaid or underpaid based upon the adjusted amortization schedule.

4. Prepayment. This Note may be prepaid in whole or in part at any time on or before the Maturity Date.

5. Overdue Amounts. Any overdue principal of and, to the extent permitted by law, overdue interest on the outstanding principal of this Note will bear interest before and after judgment, payable on demand, for each day until paid at a rate of twelve and seventy-one one-hundredths percent (12.71%) per annum.

6. Default. Any of the following, without notice or demand of any kind, shall constitute a default under this Note (an "Event of Default"):

(a) Maker shall fail to make any payment required hereunder when due;

(b) Maker shall be in default under Section 10.1 of the Ownership Agreement;

(c) Maker shall be in default with respect to its obligations concerning the sale of long-term bonds under Section 5.18 of the Ownership Agreement;

(d) Maker shall become insolvent, or shall suffer or consent to or apply for the appointment of a receiver, trustee, custodian or liquidator of its property, or shall generally be unable to or fail to pay its debts as they become due, or shall make a general assignment for the benefit of creditors;

(e) Maker shall file a voluntary petition in bankruptcy, or seek to effect a plan or other arrangement with creditors or any other relief under the Bankruptcy Code, or under any state or other Federal law granting relief to debtors, whether now or hereafter in effect; or any involuntary petition or proceeding pursuant to the Bankruptcy Code or any other applicable state or other Federal law relating to bankruptcy, reorganization or other relief for debtors is filed or commenced against Maker and is not dismissed, stayed or vacated within sixty days thereafter; Maker shall file an answer admitting the jurisdiction of the court and the material allegations of any involuntary petition; or Maker shall be adjudicated a bankrupt, or an order for relief shall be entered by any court of competent jurisdiction under the

EXHIBIT 2

Bankruptcy Code or any other applicable state or Federal law relating to bankruptcy, reorganization or other relief for debtors.

Upon the occurrence of an Event of Default, the entire outstanding principal balance of this Note, together with all accrued interest, costs, late charges and other amounts that may become payable under the terms of this Note shall, at the option of the Payee, become due and payable forthwith, without notice, provided that in the case of any of the Events of Default specified in clause (d) or (e) above, without any notice to Maker or any other act by Payee, this Note shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by Maker. No failure to exercise such option shall be deemed a waiver on the part of the Payee hereof of any right accruing thereafter.

7. Expenses. Maker agrees to pay any and all costs, including without limitation attorneys' fees and expenses at trial, or on any appellate review, incurred by Payee or any holder of this Note in enforcing this Note and collecting sums due under this Note.

8. Waiver. Maker hereby waives presentment, demand of payment, notice of dishonor, protest, notice of nonpayment and any and all other notices and demands whatsoever. MAKER ACKNOWLEDGES THAT THE WAIVER OF IMMUNITY PROVISIONS IN SECTION 7.1 OF THE OWNERSHIP AGREEMENT ARE APPLICABLE TO ITS OBLIGATIONS UNDER THIS NOTE.

9. Governing Law and Validity. This Note shall be governed by and construed in accordance with the laws of the State of Oregon and the United States of America. If one or more of the provisions contained in this Note shall be for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but this Note shall be construed as if such invalid, illegal or unenforceable provisions had never been included.

IN WITNESS WHEREOF, Maker has executed this Note as of the date set forth above.

MAKER

CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

By: Olney Patt, Jr.
Name: Olney Patt, Jr.
Title: Chairman Tribal Council

EXHIBIT 2

WHOLESALE POWER

PURCHASE AND SALE AGREEMENT

NO. 02-03-A

BETWEEN

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

AND

PORTLAND GENERAL ELECTRIC COMPANY

EXHIBIT 2

WHOLESALE POWER PURCHASE AND SALE AGREEMENT
NO. 02-03-A
BETWEEN
THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON
AND
PORTLAND GENERAL ELECTRIC COMPANY

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WHOLESALE POWER PURCHASE AND SALE AGREEMENT
NO. 02-03-A
BETWEEN
THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION
OF OREGON
AND
PORTLAND GENERAL ELECTRIC COMPANY

This Wholesale Power Purchase and Sale Agreement No. 02-03-A (this "Agreement") is entered into effective as of July 16, 2001, (the "Effective Date") by and between Portland General Electric Company, ("PGE" or "Buyer"), and The Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribes" or "Seller"). PGE and Seller may also be referred to individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, the Tribes desire to sell, and PGE desires to purchase, Firm Capacity and Energy from the Tribes in accordance with the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the premises and representations contained herein, the Parties agree hereby as follows:

ARTICLE I
Definitions

1.1 *Definitions*.

As used in this Agreement, the following terms shall have the meanings specified in this Section 1.1:

1.1.1 "*Affiliate*" shall mean, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this person, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.1.2 "*Agreement*" shall have the meaning set forth in the introductory paragraph above.

1.1.3 "*Bankruptcy Proceeding*" shall mean, with respect to a Party or entity, when such Party or entity (i) makes an assignment or any general arrangement for the benefit of creditors, (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed for 30 days after such filing, (iii) otherwise becomes bankrupt or insolvent (however evidenced) or (iv) is unable to pay its debts as they fall due.

EXHIBIT 2

1.1.4 "*Business Day*" shall mean a calendar day other than days on which Federal Reserve member banks in Portland, Oregon are authorized or required by Law to be closed.

1.1.5 "*Claims*" shall mean all claims or actions, threatened or filed and whether groundless, false or fraudulent, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to, during the term of, or after the termination of this Agreement.

1.1.6 *"Contract Day"* shall mean all hours ending 07:00:00 through 22:00:00 PPT, Monday through Saturday, inclusive, during the Delivery Term except for the six official NERC holidays.

1.1.7 "*Contract Price*" shall mean (1) Ninety Dollars ($90.00) in U.S. dollars per MWh of Contract Quantity for the first four hundred (400) MWhs of Heavy Load Hour Firm Energy per Day delivered from January 1, 2002 to March 30, 2002 inclusive, (2) Sixty-Two Dollars and Fifty Cents ($62.50) in U.S. Dollars for the second four hundred (400) MWhs of Heavy Load Hour Firm Energy per Day delivered from January 1, 2002 to March 30, 2002, inclusive and (3) Fifty Dollars ($50.00) in U.S. dollars per MWh of Contract Quantity for the first four hundred (400) MWhs of Heavy Load Hour Firm Energy per Day delivered from April 1, 2002 to June 29, 2002 inclusive.

1.1.8 *"Contract Quantity"* means a minimum and a maximum of eight hundred (800) MWhs of Heavy Load Hour Firm Energy per Day from January 1 to March 30, 2002 inclusive and a minimum and a maximum of four hundred (400) MWhs of Heavy Load Hour Firm Energy from April 1 to June 29 inclusive, plus such additional deliveries as are required for transmission losses pursuant to Paragraph 4.2.

1.1.9 *"Contract Term"* shall mean the term of this Agreement as set forth in Section 2.1.

1.1.10 "*Costs*" shall have the meaning defined in Section 7.2.4.

1.1.11 "*Day*" shall be defined as any 24-hour period commencing at 00:00 hours at the prevailing time at the Delivery Point.

1.1.12 "*Default*" shall have the meaning set forth in Section 7.1.

1.1.13 "*Defaulting Party*" shall have the meaning set forth in Section 7.1.

1.1.14 "*Delivery Point*" shall mean the Round Butte Switchyard 230 kV bus unless otherwise mutually agreed upon by the Parties.

1.1.15 *"Delivery Term"* shall have the meaning defined in Section 2.2.

1.1.16 "*Energy*" shall mean electric Energy expressed in megawatt hours (MWh).

1.1.17 "*Equitable Defenses*" shall mean any bankruptcy, insolvency, reorganization and other Laws affecting creditor's rights generally, and with regard to equitable remedies, the discretion of the court before which the proceedings to obtain same may be pending.

1.1.18 "*Fees*" shall mean Scheduling, imbalance or similar fees, charges or penalties imposed by third parties.

1.1.19 "*Firm Energy*" shall mean the only excuse for non-delivery or non-acceptance of Energy shall be the existence of an event of Uncontrollable Force, or the other Party's nonperformance.

1.1.20 "*Gains*" shall have the meaning defined in Section 7.2.4.

1.1.21 *"Heavy Load Hours"* shall mean hours ending 07:00:00 through 22:00:00 PPT, Monday through Saturday, except for NERC designated holidays.

1.1.22 "*Interest Rate*" means, for any date, two percent over the per annum rate of interest equal to the Prime Rate; provided, the Interest Rate shall never exceed the maximum lawful rate permitted by applicable Law.

1.1.23 "*Law*" means any law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination by a court, regulatory agency or governmental authority of competent jurisdiction.

1.1.24 "*Legal Proceedings*" shall mean any suits, proceedings, judgments, rulings or orders by or before any court or any governmental authority.

1.1.25 *Light Load Hours"* shall mean all hours except for Heavy Load Hours.

1.1.26 "*Losses*" shall have the meaning defined in Section 7.2.4.

1.1.27 *"Mid-C"* shall mean the Mid-Columbia trading hub.

1.1.28 *"NERC"* means the North American Electric Reliability Council or any successor thereto.

1.1.29 "*Non-Defaulting Party*" shall have the meaning set forth in Section 7.1.1.

1.1.30 *"Ownership and Operation Agreement"* means the Agreement for the Ownership and Operation of the Pelton and Round Butte Dams and generating facilites between the Tribes and PGE.

1.1.31 *"PPT"* means Pacific Prevailing Time, that is, prevailing standard time or daylight savings time in the pacific time zone, as applicable.

1.1.32 "*Primary Transmission System*" shall mean the facilities immediately connected on each side of the Delivery Point through which Energy is Scheduled to be delivered or received pursuant to this Agreement.

1.1.33 "*Primary Transmission System Operator*" shall mean the entity or entities operating the Primary Transmission System.

1.1.34 "*Replacement Price*" shall have the meaning set forth in Section 6.1.1.

1.1.35 "*Sale Price*" shall have the meaning set forth in Section 6.1.2.

1.1.36 "*Schedule*" or "*Scheduled*" or "*Scheduling*" shall mean the act of Seller or Buyer of notifying, requesting and confirming to each other the quantity of Energy to be delivered on any given Day or Days during a Delivery Period at a specified Delivery Point.

1.1.37 "*Termination Payment*" shall have the meaning set forth in Section 7.2.2.

1.1.38 "*Transmission Providers*" shall mean collectively the entities providing transmission services for Buyer or Seller to or from the Delivery Point. Transmission Providers shall include Primary Transmission System Operators, sending and receiving Control Areas, intermediate Control Areas and other entities that own transmission or control transmission services provided by others.

1.1.39 "*Uncontrollable Force*" shall mean an event not anticipated as of the Effective Date, which is not within the reasonable control of the Party (or in the case of third party obligations or facilities, the third party) claiming suspension (the Claiming Party), and which by the exercise of due diligence the Claiming Party, or third party, is unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefor.

The only transmission-related events which can qualify as events for which performance of any obligation under this Agreement may be excused due to an Uncontrollable Force are events on a Primary Transmission System which directly affects firm transmission to or from the Delivery Point. Such events include, without limitation (except as otherwise provided herein), the loss, interruption or curtailment (in accordance with a Primary Transmission System Operator's applicable tariffs, applicable governing agreements or standard practice) of firm transmission on the Primary Transmission System delivering Energy to the Delivery Point or the Primary Transmission System receiving Energy from the Delivery Point.

As applied to any of the services provided hereunder, Uncontrollable Force specifically excludes the following: (i) loss of Buyer's markets or Buyer's inability economically to use or resell Energy purchased hereunder; (ii) Seller's inability to obtain the Contract Quantity from any particular generation resource or third party supplier: (iii) Seller's inability economically to use or resell Energy purchased hereunder; (iv) drought; (v) regulatory disallowance of the pass through of the costs of Energy or related costs; (vi) increases or decreases in Energy prices; (vii) loss, interruption or curtailment of a source or sources of

supply; and (viii) the loss, interruption or curtailment, for any reason, of transmission service on systems other than on the Primary Transmission System.

1.2 *Interpretations*.

In this Agreement, unless a clear contrary intention appears: (i) the singular number includes the plural number and vice versa; (ii). reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity; (iii) reference to any gender includes each other gender; (iv) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (v) reference to any Article, Section, Schedule or Exhibit means such Article, Section, Schedule or Exhibit to this Agreement, and references in any Article, Section, Schedule, Exhibit or definition to any clause means such clause of such Article, Section, Schedule, Exhibit or definition; (vi) "hereunder," "hereof," "hereto," "herein" and words of similar import are references to this Agreement as a whole and not to any particular Section or other provision hereof or thereof; (vii) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; (viii) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including;" and (ix) reference to any law (including statutes and ordinances) means such law as amended, modified codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder.

ARTICLE II
Term and Termination

2.1 *Contract Term*.

Subject to the provisions of Section 14.3 regarding winding-up arrangements, the term of this Agreement (the "Contract Term") shall begin on January 1, 2002 and shall remain in effect until June 29, 2002; *provided, however*, that this Agreement shall continue notwithstanding such termination until such time as all liabilities, obligations and rights related to or associated with any transactions entered into prior to the date of termination are complete and fully and finally discharged or have expired.

2.2 *Delivery Term*.

Delivery of Energy hereunder shall commence at 06:00:00 PPT on January 1, 2002 and shall end at 22:00:00 PPT on June 29, 2002.

ARTICLE III
Representations and Warranties

3.1 *Representations and Warranties.*

On the Effective Date of this Agreement each Party represents and warrants to the other Party that:

3.1.1 With regard to and the Tribes:

3.1.1.1 The Tribes are a federally recognized Indian tribe organized under a constitution and bylaws ratified by the members of the Tribes on December 18, 1937, and approved by the Assistant Secretary of the Interior of the United States on February 14, 1938, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378). The Tribes ratified on April 23, 1938 a corporate charter issued to them by Interior pursuant to Section 17 of such Act of June 18, 1934. Pursuant to the foregoing authorities the Tribes exercise governmental and corporate powers over Tribal Lands within the boundaries of the Warm Springs Indian Reservation as described in that certain Treaty between the United States of America and the Tribes and Bands of the Middle Oregon executed June 25, 1855;

3.1.1.2 The Tribes have full power and authority to enter into this Agreement, to perform their obligations hereunder and to consummate the transactions contemplated hereby, which transactions have been duly and validly authorized by the members of the Tribes and the Tribal Council of the Tribes and no other tribal action on the part of the Tribes is necessary. This Agreement has been duly and validly executed and delivered by the Tribes and this Agreement constitutes and upon the execution by the Tribes and PGE, will constitute a legal, valid and binding obligation of the Tribes enforceable against the Tribes in accordance with the terms, except as the same may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors generally, or by general equitable principles;

3.1.1.3 The execution and delivery by the Tribes of this Agreement, the performance by the Tribes of their obligations under this Agreement, the consummation of the transactions contemplated hereby will not: (1) conflict with or result in a violation or breach of any of the terms, conditions or provisions of the constitution, bylaws or corporate charter of the Tribes; (2) require any consent, approval, authorization or permit or filing with or notification to any Governmental Authority; (3) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which the Tribes are a party or by which any of its assets and properties may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained; or (4) conflict with or result in a violation or breach of any term or provision of any law or order applicable to the Tribes, including laws or regulations promulgated by the Tribes; and

EXHIBIT 2

3.1.1.4 There are no actions or proceedings pending or, to the knowledge of the Tribes, threatened against, relating to or affecting the Tribes which could reasonably be expected to result in the issuance of an order retraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement.

3.1.2 With regard to PGE:

3.1.2.1 It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in each jurisdiction in which a transaction will be performed by it;

3.1.2.2 It has all regulatory authorizations necessary for it to legally enter into and perform its obligations under this Agreement;

3.1.2.3 The execution, delivery and performance of this Agreement is within its powers, has been duly authorized by all necessary action and does not violate any terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it;

3.1.2.4 This Agreement when entered into in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

3.1.2.5 There are no Bankruptcy Proceedings pending or being contemplated by it or, to its knowledge, threatened against it; and

3.1.2.6 There are no Legal Proceedings that materially adversely affect its ability to perform its obligations under this Agreement.

ARTICLE IV
Obligations and Deliveries

4.1 *Firm Energy*.

Upon the commencement of deliveries pursuant to Section 2.2 through the remaining term of this Agreement, Seller shall make available to Buyer, and Buyer shall purchase the Contract Quantity. At Buyer's request, Energy may be scheduled for delivery in Light Load Hours and Heavy Load Hours at any rate, *provided however*, the rate shall not be in conflict with the Seller's scheduling rights contained in Section 4.2 and 5.6 of the Ownership and Operation Agreement. Seller's obligation to deliver the Contract Quantity shall be absolute and the only excuse for failure of Seller to deliver the Contract Quantity shall be an Uncontrollable Force or Buyer's failure to perform.

4.2 *Transmission Losses*

Seller shall deliver 47 KWh to the Delivery Point for each MWh of Contract Quantity purchased under this Agreement. Such deliveries shall be full compensation for transmission losses assumed to be incurred by Buyer in transmitting the Contract Quantity from the Delivery Point to the Mid-C.

4.3 *Transmission Costs*.

Seller shall pay $3.93 for each MWh delivered to the Delivery Point in satisfaction of the Contract Quantity excluding transmission losses. This amount shall be full payment for the use of transmission facilities assumed to be used in delivering the Contract Quantity from the Delivery Point to the Mid-C. Buyer shall be responsible for any loss of Energy, any costs or charges imposed on or associated with the Contract Quantity, including inadvertent Energy flows, transmission losses and loss charges relating to the transmission of the Contract Quantity, associated with the transmission of Energy after its assumed delivery to the Mid-C.

4.4 *Notification of Scheduled Deliveries*.

Seller shall notify Buyer of scheduled deliveries in accordance with Section 4.2 of the Ownership and Operation Agreement. In the event Seller supplies the Contract Quantity from a source other than the Pelton Round Butte generation facilities or the Pelton Reregulating Dam, unless otherwise agreed, Seller shall be obligated to Schedule with the appropriate Transmission Providers or arrange for Scheduling service and to deliver to the Primary Transmission System, which is delivering Energy to the Delivery Point, and Buyer shall be obligated to Schedule with the appropriate Transmission Providers or arrange for a Scheduling service and to receive from the Primary Transmission System, which is receiving Energy at the Delivery Point, the Contract Quantity during each Day in accordance with the Transmission Provider's or Primary Transmission System Operator's notice requirements.

ARTICLE V
Title and Risk

5.1 *Title and Risk of Loss*.

Title to and risk of loss from Energy shall pass from Seller to Buyer at the Delivery Point.

5.2 *Seller Warranties*.

Seller warrants that it will transfer to Buyer good title to the Energy, free and clear of all liens, claims and encumbrances arising or attaching prior to the Delivery Point and that its sale is in compliance with all applicable laws and regulations. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED.

ARTICLE VI
Nonperformance and Remedies

6.1 *Damages for Failure to Deliver or Receive.*

Without limiting the rights of the non-breaching Party under the provisions of this Article 6 or otherwise, if either Party fails to deliver or receive or to provide, as the case may be, the quantities of Energy due under this Agreement, (thereby becoming the non-performing Party) the non-breaching Party shall, as promptly as practicable, but no longer than twenty-four (24) hours, give notice of such nonperformance to the non-performing Party. If the Parties agree and if commercially reasonable to do so in the context of its outstanding obligations, the non-breaching Party may allow the non-performing Party to remedy such nonperformance through an increase in subsequent hourly deliveries or receipts, as appropriate. If such a cure is not allowed by the non-breaching Party, or if allowed is not effected, the non-breaching Party shall be entitled to receive from the non-performing Party an amount calculated as follows (unless performance is excused by Uncontrollable Force):

6.1.1 In the event that Seller fails to Schedule and deliver all or part of the Contract Quantity, where such failure was not agreed to or was not caused by Uncontrollable Force or by Buyer, Seller shall pay Buyer (on a date payment would otherwise be due from Buyer under this Agreement) an amount for each megawatt hour (MWh) of such deficiency equal to the positive difference, if any, of (i) the "Replacement Price", which is the price at which Buyer is, or would be, able to obtain comparable supplies of power at a commercially reasonable price (adjusted to reflect differences in transmission costs, if any) minus (ii) the Contract Price; *provided, however*, in no event shall any such amounts include any penalties, ratcheted demand or similar charge.

6.1.2 In the event that PGE fails to Schedule and to receive all or part of the Contract Quantity, where such failure was not agreed to or was not caused by Uncontrollable Force or by Seller, Buyer shall pay Seller (on a date payment would otherwise be due to Seller under this Agreement) an amount for each MWh of such deficiency equal to the positive difference; if any, of (i) the Contract Price minus (ii) the "Sales Price", which is the price at which, if any, Seller resells or otherwise disposes of all or part of the Contract Quantity not received by Buyer, *provided, however*, in no event shall any such amounts include any penalties, ratcheted demand or similar charge.

6.1.3 If payment pursuant to 6.1.1 and 6.1.2 is not made on a date payment would otherwise be due, the non-performing Party shall pay any amount due from it under this Article 6 within two (2) Business Days after the demand therefor is made.

ARTICLE VII
Default

7.1 *Default.*

A Default shall mean with respect to a Party (Defaulting Party):

EXHIBIT 2

7.1.1 The failure by the Defaulting Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within two (2) Business Days after written notice of such failure is given to the Defaulting Party by the other Party (Non-Defaulting Party) and provided the payment is not the subject of a good faith dispute; or

7.1.2 Any representation or warranty made by the Defaulting Party herein shall at any time prove to be false or misleading in any material respect; or

7.1.3 Making a general assignment or arrangement for the benefit of creditors; or

7.1.4 The failure by the Defaulting Party to perform any covenant set forth in this Agreement (other than the events that are otherwise specifically covered in this Article 7) or its obligations to deliver or receive Energy, a remedy for which is provided in Article 6, and such failure is not excused by Uncontrollable Force or cured within five (5) Business Days after written notice thereof to the Defaulting Party; or

7.1.5 The inability to pay its debts as they fall due; or

7.1.6 The Defaulting Party shall be subject to a Bankruptcy Proceeding.

7.2 *Remedies*.

In the event of a Default by the Tribes,

7.2.1 If a Default is limited to a failure of the Tribes to make payments, the Tribes' generation associated with their ownership share of the Pelton Dam and Round Butte Dam shall be sold during the period of Default for the benefit of PGE and the proceeds applied to the amounts owed by the Tribes.

7.2.2 Early Termination. Notwithstanding and in addition to any other provision of this Agreement, and except as provided below, if a Default occurs with respect to a Defaulting Party at any time during the term of this Agreement, the Non-Defaulting Party may, for so long as the Default is continuing:

7.2.2.1 Establish a date (which date shall be between one (1) and five (5) Business Days after the Non-Defaulting Party delivers notice) (Early Termination Date) on which the Agreement will terminate; and

7.2.2.2 Withhold any payments due in respect of this Agreement; *provided, however*, upon the occurrence of any Default listed in Sections 7.1.3, 7.1.5 or 7.1.6 as it may apply to any Party, this Agreement in respect thereof shall automatically terminate, without notice, and without any other action by either Party as if an Early Termination Date had been declared immediately prior to such event.

7.2.3 Termination Payment. If an Early Termination Date has been designated, the Non-Defaulting Party shall in good faith calculate its Gains, Losses and Costs resulting from the termination of the Agreement. The Gains, Losses and Costs shall be determined by comparing the value of the remaining term, Contract Quantity and Contract Prices remaining over the Contract Term had it not been terminated to the equivalent quantities and relevant market prices for the remaining term either quoted by a bona fide third-party offer or which are reasonably expected to be available in the market under a replacement contract for the Agreement. To ascertain the market prices of a replacement contract, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Power futures contracts, quotations from leading dealers in Energy swap contracts and other bona fide third party offers, all adjusted for the length of the remaining term and difference in transmission. It is expressly agreed that a Party shall not be required to enter into replacement transactions in order to determine the Termination Payment, as defined below.

7.2.4 The Non-Defaulting Party shall aggregate such Gains, Losses and Costs with respect to the Agreement into a single net amount (Termination Payment) and notify the Defaulting Party. If the Non-Defaulting Party's aggregate Losses and Costs exceed its aggregate Gains, the Defaulting Party shall, within five (5) Business Days of receipt of such notice, pay the net amount to the Non-Defaulting Party, which amount shall bear interest at the Interest Rate from the Early Termination Date until paid. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of the Agreement, the Non-Defaulting Party shall pay such excess to the Defaulting Party on or before the later of: (i) ten (10) days after the end of the month ending on or after the Early Termination Date or (ii) five (5) Business Days after receipt by the Defaulting Party of the Non-Defaulting Party's notice given above, which amount shall bear interest at the Interest Rate from the Early Termination Date until paid. If the Defaulting Party disagrees with the calculation of the Termination Payment, the issue shall be submitted to arbitration in accordance with the arbitration procedures set forth in Article 13 and the resulting Termination Payment shall be due and payable within three (3) Business Days after the award.

7.2.5 As used herein with respect to each Party: (i) "Costs" shall mean, with respect to a Party, brokerage fees, commissions and other similar Transaction Costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the terminated Agreement, and attorney fees, if any, incurred in connection with enforcing its rights under this Agreement; (ii) "Gains" shall mean, with respect to a Party, an amount equal to the present value of the economic benefit (exclusive of Costs), if any, to it resulting from the termination of its obligations with respect to the terminated Agreement, determined in a commercially reasonable manner; and (iii) "Losses" shall mean, with respect to a Party, an amount equal to the present value of the economic loss (exclusive of Costs), if any, to it resulting from the termination of its obligations with respect to the terminated Agreement, determined in a commercially reasonable manner. At the time for payment of any amount due under this Section 7.2, each Party shall pay to the other Party all additional amounts payable by it pursuant to this Agreement, but all such amounts shall be netted and aggregated with any Termination Payment payable hereunder.

7.3 *Other Remedies*.

7.3.1 Notwithstanding any other provision of this Agreement, if Seller or Buyer fails to pay to the other Party any amount when due, the aggrieved Party shall have the right to: (i) suspend performance under the Agreement until such amounts plus interest at the Interest Rate have been paid and/or (ii) exercise any remedy available at Law or in equity to enforce payment of such amount plus interest at the Interest Rate; provided, however, if the non-paying Party, in good faith, shall dispute the amount of any such billing or part thereof and shall pay such amounts as it concedes to be correct, no suspension shall be permitted.

7.4 *Costs for Exercise of Rights*.

After the occurrence of a Default, the Defaulting Party shall be responsible for all reasonable costs and expenses actually incurred by the Non-Defaulting Party in connection with the exercise of its rights under this Agreement including, without limitation, reasonable attorneys' fees (including appeal) and disbursements.

7.5 *Other Events*.

In the event PGE is regulated by a federal, state or local regulatory body, and such body shall disallow all or any portion of any costs incurred or yet to be incurred by PGE under any provision of this Agreement, such action shall not operate to excuse PGE from performance of any obligation nor shall such action give rise to any right of PGE to any refund or retroactive adjustment of the Contract Price provided in this Agreement. Notwithstanding the foregoing, if a Party's activities hereunder become subject to regulation of any kind whatsoever under any Law to a greater or different extent than that existing on the Effective Date and such regulation either: (i) renders this Agreement illegal or unenforceable in its entirety; or (ii) materially adversely affects the business of the affected Party, with respect to its financial position or otherwise, then in the case of (i) above, either Party, and in the case of (ii) above, the affected Party, shall at such time have the right to declare an Early Termination Date in accordance with the provisions hereof; provided, notwithstanding the rights of the Parties to declare an early Termination Date as stated above, the affected Party shall be liable for payment of the Termination Payment calculated by the non-affected Party as provided in Section 7.2. Notice that an Early Termination pursuant to Section 7.2 has occurred shall be given by the non-affected Party to the affected Party before the close of business on the Business Day following such liquidation, provided that failure to give such notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the affected Party against the non-affected Party.

7.6 *Set Off of Accounts*.

As an alternative to its rights under Sections 7 2 and 7 3 and without prejudice to its exercise of its rights under such Sections at any time, the Non-Defaulting Party may from time to time set off any or all amounts which the Defaulting Party owes to it (whether under this Agreement or otherwise and whether or not then due) against any or all amounts which it owes to the Defaulting Party (whether under this Agreement or otherwise and whether or not then due) provided that any amount not then due which is included in such setoff shall be discounted to the

prime rate (as disclosed by U.S. Bank from time to time) at the time of setoff (to take account of the period between the date of setoff and the date on which such amount would have otherwise been due).

ARTICLE VIII
Uncontrollable Force

8.1 *Performance Excused.*

Except with regard to a Party's obligation to make payments when due, neither Party shall be considered to be in Default in the performance of any obligations under this Agreement when a failure of performance shall be due to an Uncontrollable Force. In the event either Party hereto is prevented, wholly or in part, by an Uncontrollable Force from carrying out its obligations under this Agreement, it is agreed that upon such Party's giving notice and full details of such Uncontrollable Force as promptly as practicable, but not later than twenty-four (24) hours after the discovery of the effects of an Uncontrollable Force or the occurrence of the cause relied on, whichever is later, the Party giving such notice shall be relieved of its obligations insofar as they are affected by such Uncontrollable Force during the continuance of any inability so caused from its inception but for no longer period. The Party claiming Uncontrollable Force shall remedy the Uncontrollable Force with all reasonable dispatch.

8.2 *Exclusions.*

Neither Party shall be entitled to the benefit of this Article 8 under any of the following circumstances:

8.2.1 To the extent that the inability was caused by the negligence of the Party claiming relief;

8.2.2 To the extent that the inability was caused by the Party claiming relief having failed to remedy the condition acting commercially reasonably and with reasonable dispatch;

8.2.3 To the extent the event constituting Uncontrollable Force was intentionally initiated or intentionally acquiesced in by the Party claiming relief for the purpose of allowing that Party to claim Uncontrollable Force; or

8.2.4 If the inability was caused by a Party's lack of funds.

8.3 *Notice.*

The Party giving notice of Uncontrollable Force shall state in the notice required in Section 8.1, or if not practicable, in a second notice delivered by facsimile, telecopier or in writing not more than twenty-four (24) hours after the initial notice, the nature of the Uncontrollable Force, the date of its commencement and the anticipated duration if ascertainable and the actions being taken to mitigate the effects of the Uncontrollable Force. If requested by

the other Party, the Party claiming Uncontrollable Force shall provide a written report on the event of Uncontrollable Force including the cause, the actions taken to mitigate its effects and other information as may be reasonably requested by the other Party to evaluate the claim of Uncontrollable Force.

8.4 *Settlements.*

It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and that the above requirement of the use of commercially reasonable efforts in restoring normal operating conditions shall not require the settlement of strikes or lockouts by acceding to the terms of the opposing Party when such is inadvisable in the discretion of the Party having the difficulty.

ARTICLE IX
Waiver of Sovereign Immunity

The Tribes acknowledge and agree that in entering into this Agreement they may incur obligations to PGE, and PGE's successors and assigns, and may become liable to these parties for injunctive or declaratory relief or for damages. The Tribes further acknowledge that PGE would not enter into this Agreement with the Tribes if the Tribes could defeat or hinder enforcement against them of the rights granted to PGE by claiming sovereign immunity. THIS WAIVER OF THE SOVEREIGN IMMUNITY OF THE TRIBES FROM SUIT OR ACTION IS ADOPTED PURSUANT TO THE TERMS OF WARM SPRINGS TRIBAL CODE CHAPTER 30 AND SHALL BE STRICTLY CONSTRUED AND LIMITED TO ITS SPECIFIC TERMS AND THE SPECIFIC WAIVER GRANTED. THEREFORE, THE TRIBES HEREBY CONSENT TO SUIT, ARBITRATION, ENFORCEMENT AND COLLECTION OF JUDGMENTS, AWARDS, INJUNCTIONS AND DECLARATORY JUDGMENTS AS TO ANY OBLIGATIONS ARISING OUT OF THIS AGREEMENT AND ANY TRANSACTION HEREUNDER. THE TRIBES FURTHER EXPRESSLY WAIVE, WITHOUT LIMITATION, ANY CLAIM OR ASSERTION OF SOVEREIGN IMMUNITY FROM SUIT IN ACTIONS (A) TO INTERPRET OR ENFORCE ANY PROVISION OF OR RIGHTS GRANTED IN THIS AGREEMENT, (B) TO SEEK JUDGMENT FOR MONETARY OBLIGATIONS ARISING UNDER THIS AGREEMENT AND ANY TRANSACTION HEREUNDER AND (C) TO ENFORCE AND COLLECT ANY JUDGMENT IN ANY SUIT OR ARBITRATION CONCERNING OR ARISING OUT OF THIS AGREEMENT AND ANY TRANSACTION HEREUNDER.

ARTICLE X
Limitations of Remedies, Liability and Damages

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S

LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

THE PARTIES AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON CONTRACT LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL (INCLUDING BUT NOT LIMITED TO REPLACEMENT POWER COSTS), INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO, HOWSOEVER CAUSED.

THE PARTIES AGREE THAT FOR ANY CLAIM ARISING FROM A THEORY BASED ON TORT LAW OR OTHERWISE, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO REPLACEMENT POWER COSTS), INCIDENTAL OR INDIRECT LOSSES OR DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM A PARTY'S SOLE, JOINT OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE OR RECKLESS CONDUCT.

TO THE EXTENT ANY PAYMENT REQUIRED TO BE MADE UNDER THIS AGREEMENT IS AGREED BY THE PARTIES TO CONSTITUTE LIQUIDATED DAMAGES, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE AND THAT SUCH PAYMENT CONSTITUTES A REASONABLE APPROXIMATION OF SUCH DAMAGES, AND NOT A PENALTY.

ARTICLE XI
Duty to Mitigate Damages

11.1 *Mitigation.*

Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

ARTICLE XII
Taxes

12.1 *Taxes.*

The Contract Price shall include full reimbursement for, and Seller is liable for and shall pay, or cause to be paid, or reimburse Buyer if Buyer has paid, all taxes applicable to the

delivery of Energy arising prior to the Delivery Point. If Buyer is required to remit such tax, the amount shall be deducted from any sums due to Seller Seller shall indemnify, defend and hold harmless Buyer from any Claims for such taxes. The Contract Price does not include reimbursement for, and Buyer is liable for and shall pay, cause to be paid, or reimburse Seller if Seller has paid, all taxes applicable to the delivery of Energy arising at and from the Delivery Point, including any taxes imposed or collected by a taxing authority with jurisdiction over Buyer. Buyer shall indemnify, defend and hold harmless Seller from any Claims for such taxes Either Party, upon written request of the other, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if either Party is exempt from taxes, and shall use reasonable efforts to obtain and cooperate with obtaining any exemption from or reduction of any tax. Each Party shall use reasonable efforts to administer this Agreement and implement the provisions in accordance with the intent to minimize taxes.

ARTICLE XIII
Billing and Payment

13.1 *Billing and Payment.*

On or before the tenth (10th) day of each month following an Invoice Month, Seller shall send to Buyer an invoice setting forth the quantity of Energy which was Scheduled, the Contract Price or taxes, if applicable, Seller is obligated by Law to collect from Buyer, and the total amount due from Buyer.

13.2 *Method of Payment.*

PGE shall remit the amount due by wire or electronic fund transfer, pursuant to Seller's invoice instructions, by the later of the twentieth (20th) day of the calendar month in which the invoice was rendered or the tenth (10th) calendar day following the presentation of such invoice, provided that if such day is not a Business Day, payment is due on the next Business Day following that date. Wire or electronic fund transfers shall be by FEDWIRE or other electronic transfer service that assures immediately available funds to Seller on no later than the due date.

13.3 *Overdue Payments.*

Overdue payments shall bear interest at the Interest Rate from and including the due date to, but excluding the date of, payment on the unpaid portion.

ARTICLE XIV
Arbitration

14.1 *Scope of Disputes to be Arbitrated.*

Any dispute or need for an interpretation arising out of Article 6 and Article 7 of this Agreement pertaining to the calculation of a Termination Payment or a payment required thereunder shall be submitted to binding arbitration. DISPUTES OTHER THAN THOSE

SPECIFICALLY REFERENCED IN THE FOREGOING SENTENCE SHALL BE SUBMITTED TO ARBITRATION PURSUANT TO THIS ARTICLE 14.

14.2 *Arbitration Process.*

Arbitration pursuant to this Article 14 shall be by one arbitrator who has not previously been employed by either Party, and does not have a direct or indirect interest in either Party or the subject matter of the arbitration. Such arbitrator shall either be as mutually agreed by the Parties within fourteen (14) days after written notice from either Party requesting arbitration, or failing agreement, shall be selected under the expedited rules of the Portland Arbitration Service (the "PSA"). Such arbitration shall be held in Portland, Oregon. The rules of the PSA shall apply to the extent not inconsistent with the rules herein specified. Either Party may initiate arbitration by written notice to the other Party and the arbitration shall be conducted according to the following: (i) not later than seven (7) days prior to the hearing date set by the arbitrator, each Party shall submit a brief with a single proposal for settlement; (ii) the hearing shall be conducted on a confidential basis without continuance or adjournment; (iii) the arbitrator shall be limited to selecting only one of the two proposals submitted by the Parties; (iv) each Party shall divide equally the cost of the arbitrator and the hearing and each Party shall be responsible for its own expenses and those of its counsel and representatives; and (v) evidence concerning the financial position or organizational make-up of the Parties, any offer made or the details of any negotiation prior to the arbitration and the cost to the Parties of their representatives and counsel shall not be admissible.

ARTICLE XV
Miscellaneous

15.1 *Assignment of Agreement.*

Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party (which consent shall not unreasonably be withheld); *provided, however*, either Party may, without consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an Affiliate of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by all terms and conditions hereof.

15.2 *Limitations on Recourse.*

The Tribes hereby pledge all their Pelton Round Butte Project Rights ("Project Rights"), as they are defined in the Ownership and Operation Agreement to satisfy any and all obligations they may have to PGE under this Agreement and otherwise with respect to the Pelton Round Butte Project. PGE agrees to seek satisfaction of any Claims it may have against the Tribes under this Agreement initially from the Tribes' Project Rights and to the extent the Tribes' Project Rights are insufficient to satisfy PGE's outstanding claims, PGE shall next seek

satisfaction from the Tribes' rights in the Pelton Reregulating Dam generation. In the event a Claim has not been satisfied as of the expiration of the term of this Agreement, PGE's rights pursuant to this Section 15.2 shall continue notwithstanding the termination of this Agreement until such time as all liabilities, obligations and rights related to or associated with the Agreement prior to the date of termination are satisfied. The provisions of this section 15.2 do not limit the rights of either the Tribes or PGE to seek (a) specific performance of this Agreement, (b) other injunctive relief or (c) any other form of non-monetary relief.

15.3 *Audit Right.*

Each Party shall have the right, at its sole cost and expense, upon reasonable notice and at reasonable times, to examine the books and records of the other Party to the extent reasonably necessary to verify the accuracy of any billing statement, payment demand, charge, payment or computation made under this Agreement during the immediately preceding twenty-four (24) months. For all transactions pursuant to this Agreement, the Parties shall retain all relevant records for twenty-four (24) months following each Delivery Period.

15.4 *Winding Up Arrangements.*

All indemnity and audit rights shall survive the termination of this Agreement. All obligations provided in this Agreement shall remain in effect following the expiration or termination of this Agreement to the extent necessary to give full force and effect to the rights and obligations undertaken by the Parties herein.

15.5 *Notices.*

All notices, requests, statements or payments shall be made as specified in Exhibit A. Notices required to be in writing shall be delivered by letter, facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the Business Day on which it was transmitted or hand delivered (unless transmitted or hand delivered after close in which case it shall be deemed received at the close of the next Business Day). Notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

15.6 *Governing Law.*

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OREGON, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW, EXCEPT TO THE EXTENT SUCH OREGON LAWS MAY BE PREEMPTED BY THE LAWS OF THE UNITED STATES OF AMERICA.

15.7 *Waivers.*

No waiver by either Party, either express or implied, of any one or more Defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any future Default or Defaults, whether of a like or a different character. Failure by a Party to enforce any of the terms, covenants, conditions or other provisions of this Agreement at any time shall not in any way affect, limit, modify or waive that Party's right thereafter to enforce strict compliance with every term, covenant or condition herein, notwithstanding any course of dealing or custom of the trade.

15.8 *Severability.*

If any provision of this Agreement or the application thereof to any Party or circumstance shall be unenforceable to any extent, the remainder of this Agreement and the application of such provisions to the other Party or circumstances shall not be affected thereby and shall be enforceable to the greatest extent permitted by Law.

15.9 *Section Headings.*

Section headings are for the convenience of reference only and shall not affect the interpretation of this Agreement.

15.10 *No Rights to Third Parties.*

The provisions of this Agreement shall not impart rights enforceable by any person or organization not a Party or bound as a Party except for a permitted successor assignee of a Party bound by this Agreement.

15.11 *Parties Acting for Own Account.*

The Parties acknowledge that each Party is acting for its own account, and that each has made its own independent decision to enter into this Agreement and to whether this Agreement are appropriate or proper for it based upon its own judgment and upon advice from such advisors as it has deemed necessary. Each Party warrants that it is capable of evaluating and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms, conditions and risks of this Agreement. Neither Party is relying on any communications (written or oral) of the other Party as investment advice or as a recommendation to enter into this Agreement. The Parties acknowledge that neither is acting as a fiduciary, as an advisor or in an agency capacity with respect to the other Party.

15.12 *Entire Agreement; Amendment.*

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersedes all prior agreements with respect hereto. This Agreement may be modified only by a written agreement executed by both Parties hereto.

EXHIBIT 2

15.13 *Conditions of Performance*.

Performance by any Party under this Agreement is conditioned on performance then due by the other Party hereto under this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

PORTLAND GENERAL ELECTRIC COMPANY

By: _____
Name: RONALD W JOHNSON
Title: VICE PRESIDENT

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

By: _____
Name: _____
Title: _____

Charles V. Jackson
Secretary-Treasurer

EXHIBIT 2

EXHIBIT A
to the
Wholesale Power Purchase and Sale Agreement
between
The Confederated Tribes of the Warm Springs Reservation
and
Portland General Electric Company

NOTICES AND PAYMENT

Portland General Electric Company:

NOTICES & CORRESPONDENCE
Portland General Electric Company
Attn: Power Operations
121 SW Salmon Street
Portland, OR 97204
Fax No.: (503) 464-2605
Phone No.: (503) 464-7358

INVOICES:
Portland General Electric Company
Attn: Accounts Payable
121 SW Salmon Street
Portland, OR 97204

PAYMENTS (US Dollars)
U.S. Bank
for Portland General Electric
ABA Routing No.: 123000220
Account No.: 153600063512

Confirmation: Cash Management
Phone No.: 503-464-7085 or 503-464-7760

Seller:

NOTICES & CORRESPONDENCE

_____
Attn: _____
_____
_____
Fax No.: _____
Phone No.: _____

INVOICES

_____
Attn: _____
_____
_____
Fax No: _____
Phone No.: _____

PAYMENTS

_____
ABA No.: _____
Account No.: _____
Confirmation: _____
Phone No.: _____

or to such other address as Seller or PGE shall from time to time designate by letter properly addressed.

DOCUMENT ESCROW AGREEMENT

This DOCUMENT ESCROW AGREEMENT ("Escrow Agreement"), is dated as of January 1, 2002 and is by and among The Confederated Tribes of the Warm Springs Reservation of Oregon, a federally recognized Indian tribe having a Constitution and Bylaws and Corporate Charter adopted pursuant to the terms of the Indian Reorganization Act, including its governing body the Tribal Council (the "Tribes"), Portland General Electric Company, an Oregon corporation ("PGE") and Jefferson County Title ("Escrow Agent"). (The Tribes and PGE are each referred to individually herein as a "Party" and collectively as the "Parties.")

Definitions

Unless otherwise defined in this Escrow Agreement, terms defined in the Long-Term Global Settlement and Compensation Agreement dated April 12, 2000 ("Settlement and Compensation Agreement" and the Asset Purchase Agreement between the Parties dated as of January 1, 2002 (the "Asset Purchase Agreement") shall have the same meanings when used herein as in such agreements.

Introductory Statement

The Parties have executed (and/or have received from third parties) the documents listed in Schedule A hereto (the "Escrow Documents") pursuant to the Settlement and Compensation Agreement and the Asset Purchase Agreement. The Parties desire that delivery of the Escrow Documents, and the effectiveness thereof, be conditioned and contingent entirely upon satisfaction of the Escrow Conditions (as defined below) and wish to place the Escrow Documents in escrow with Escrow Agent pending satisfaction or failure of the Escrow Conditions. However, the Parties desire that such escrow shall not continue after March 31 , 2002 (the "Outside Date"); and the Parties intend that, if the Escrow Conditions are not satisfied on or before 5:00 p.m. Portland, Oregon time on the Outside Date, the Escrow Documents shall be void and of no further force and effect whatsoever.

EXHIBIT 2

NOW, THEREFORE, in consideration of Ten Dollars ($10) and other good and valuable consideration, and intending to be legally bound hereby, the Parties and Escrow Agent agree as follows:

1. Escrow Deposit. The Parties herewith deliver the Escrow Documents to Escrow Agent. Escrow Agent agrees to hold the Escrow Documents in escrow upon the terms, and subject to the conditions, of this Escrow Agreement.

2. Escrow Conditions. The "Escrow Conditions" are defined and set forth on Schedule B hereto.

3. Instructions to Escrow Agent.

(a) If the Escrow Conditions are satisfied before 5:00 p.m. Portland, Oregon time on the Outside Date, time being of the essence, Escrow Agent shall distribute the Escrow Documents in accordance with the distribution instructions in Schedule A hereto. The Parties agree that distribution of the Escrow Documents by Escrow Agent in accordance with the instructions in Schedule A shall be deemed to complete delivery of the Escrow Documents under the Settlement and Compensation Agreement and the Asset Purchase Agreement. Upon such distribution of the Escrow Documents by the Escrow Agent this Escrow Agreement shall terminate.

(b) If the Escrow Conditions are not satisfied before 5:00 p.m. Portland, Oregon time on the Outside Date, time being of the essence, the Escrow Documents shall be deemed void and of no force and effect whatsoever, provided that such deemed voiding of the Escrow Documents shall have no effect upon the remaining rights, obligations and remedies of the Parties as provided in the Settlement and Compensation Agreement and the Asset Purchase Agreement, each of which has been fully executed and delivered by the Parties contemporaneously herewith and is not otherwise subject to this escrow. Escrow Agent shall hold the Escrow Documents for thirty (30) days after the Outside Date and, promptly thereafter, unless Escrow Agent shall have previously received a written agreement signed by both Parties directing otherwise (which neither Party shall have any obligation to sign), Escrow Agent shall destroy all the Escrow Documents to signify that the same are void and of no force and effect whatsoever whereupon this Escrow Agreement shall terminate.

4. Limitations on Escrow Agent's Responsibilities. Escrow Agent shall have no duties or responsibilities except those set forth herein, which the Parties agree are ministerial in nature. Escrow Agent shall have no duty to know or determine the performance or non-performance of any provision of any agreement between the Parties, including with respect to the Settlement and Compensation Agreement and the Asset Purchase Agreement. Except for Escrow Agent's own willful default or gross negligence, Escrow Agent shall have no liability for the performance of any duties imposed upon Escrow Agent under this Escrow Agreement. Escrow Agent may rely and/or act upon any instrument or document which Escrow Agent believes to be genuine and to have been executed and/or delivered by the proper person. Escrow Agent may assume that any person

purporting to give any notice or instructions in accordance with the provisions of this Escrow Agreement has been duly authorized to do so. Escrow Agent shall not be bound by any amendment, modification, cancellation or rescission of this Escrow Agreement unless in writing, signed by the Parties and delivered to Escrow Agent. No assignment, transfer, conveyance or hypothecation of any right, title or interest in and to the subject matter of this Escrow Agreement shall be binding upon Escrow Agent unless written notice thereof shall be served upon Escrow Agent.

5. Uncertainty/Disputes. If Escrow Agent is uncertain for any reason whatsoever as to its duties or rights under this Escrow Agreement, or if Escrow Agent receives instructions from any person which (in Escrow Agent's sole judgment) conflict with this Escrow Agreement, notwithstanding any provision hereof to the contrary Escrow Agent may act as follows:

(a) Escrow Agent may continue to hold the Escrow Documents until Escrow Agent receives either (i) a written agreement of both Parties with respect to the disposition of the Escrow Documents or (ii) a final non-appealable order of a court of competent jurisdiction entered in a proceeding in which both Parties are named that directs the disposition of the Escrow Documents, in which event Escrow Agent shall distribute the Escrow Documents in accordance with such agreement or court order, as applicable; and/or

(b) Escrow Agent may take such other action as Escrow Agent deems necessary or desirable, in its discretion, to discharge and terminate its duties under this Escrow Agreement, including delivery of the Escrow Documents into a court as provided in Section 11 hereof and/or bringing in such court of an action of interpleader or any other proceedings in such court which Escrow Agent deems appropriate.

In any event, the Parties shall be jointly and severally liable for, and shall pay promptly, reasonable attorney's fees and costs incurred by Escrow Agent for any litigation in which Escrow Agent is named as, or becomes, a party, or which is brought by Escrow Agent, under or with respect to this Escrow Agreement.

6. Indemnity. The Parties (jointly and severally) shall reimburse Escrow Agent (and hereby agree to indemnify and hold Escrow Agent harmless against) loss, liability, cost or expense in connection with this Escrow Agreement and/or performance of Escrow Agent's duties hereunder, including defending against any claim or liability arising out of or relating to this Escrow Agreement. As between the Parties, all fees, costs and indemnities of Escrow Agent shall be shared equally by each of them.

7. Release. The Parties hereby release Escrow Agent from any act done or omitted to be done in good faith in the performance of its duties under this Escrow Agreement excepting gross negligence or willful misconduct. However, paragraphs 5 and 6 above shall not require reimbursement to, or indemnification of, Escrow Agent in any legal action in which there

EXHIBIT 2

is a determination, final beyond appeal, of gross negligence or willful misconduct on the part of Escrow Agent.

8. Notices. Unless this Agreement specifically requires otherwise, any notice, demand or request provided for in this Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by telegraph, telex, or fax or by acknowledged delivery, or sent by registered or certified mail, postage prepaid to the person specified below:

If to the Parties:

To the Tribes:

Confederated Tribes of the Warm Springs Reservation
Chairman, Tribal Council
P. O. Box C
Warm Springs, OR 97761

with a copy to:

Mr. Dennis C. Karnopp, Esq.
Karnopp, Petersen, Noteboom, Hansen, Arnett, & Sayeg LLP
1201 NW Wall St.
Suite 300
Bend, OR 97701

To PGE:

Portland General Electric Company
Attention: Vice President, Power Supply
1 World Trade Center-17
121 SW Salmon Street
Portland, OR 97204

with a copy to:

Portland General Electric Company
Attention: General Counsel
1 World Trade Center-17
121 SW Salmon Street
Portland, OR 97204

If to Escrow Agent:

Jefferson County Title Company
534 SW 4th Street
Madras, OR 97741
Attention: Debbie Rauscher

Notice given pursuant to this Section 8 shall be effective upon physical receipt by both of the two non-notifying parties.

9. Waiver of Immunity. The Tribes acknowledge and agree that in entering into this Escrow Agreement, they may incur obligations to the Escrow Agent, PGE, and each of their respective successors and assigns, and may become liable to these parties for injunctive or declaratory relief or for damages. The Tribes further acknowledge that the Escrow Agent and PGE would not enter into this Escrow Agreement with the Tribes if the Tribes could defeat or hinder enforcement against them of the rights granted to the Escrow Agent or PGE by claiming sovereign immunity. THIS WAIVER OF THE SOVEREIGN IMMUNITY OF THE TRIBES FROM SUIT OR ACTION IS ADOPTED PURSUANT TO THE TERMS OF WARM SPRINGS TRIBAL CODE CHAPTER 30 AND SHALL BE STRICTLY CONSTRUED AND LIMITED TO ITS SPECIFIC TERMS AND THE SPECIFIC WAIVER GRANTED. THE TRIBES HEREBY CONSENT TO SUIT, ARBITRATION, ENFORCEMENT AND COLLECTION OF JUDGMENTS, AWARDS, INJUNCTIONS AND DECLARATORY JUDGMENTS AS TO ANY OBLIGATIONS ARISING OUT OF THIS ESCROW AGREEMENT. THE TRIBES HEREBY EXPRESSLY WAIVE, WITHOUT LIMITATION, ANY CLAIM OR ASSERTION OF SOVEREIGN IMMUNITY FROM SUIT IN ACTIONS TO INTERPRET OR ENFORCE ANY PROVISION OF OR RIGHTS GRANTED IN THIS ESCROW AGREEMENT, TO SEEK JUDGMENT FOR MONETARY OBLIGATIONS ARISING UNDER THIS ESCROW AGREEMENT, AND TO ENFORCE AND COLLECT ANY JUDGMENT IN ANY SUIT OR ARBITRATION CONCERNING OR ARISING OUT OF THIS ESCROW AGREEMENT.

10. Choice of Laws. This Escrow Agreement shall be governed by, and construed, interpreted and enforced in accordance with, the substantive law of the State of Oregon (without reference to any principles of conflicts of laws), except to the extent such Oregon laws may be preempted by the laws of the United States of America.

11. Jurisdiction and Venue. The Parties and the Escrow Agent agree that any disputes concerning, relating to or arising out of this Escrow Agreement present a federal question. With respect to any proceedings, suit or action relating to this Escrow Agreement or the subject matter hereof, (collectively referred to as "Proceedings") each Party and the Escrow Agent irrevocably submits to the exclusive jurisdiction of the United States District Court for the District of Oregon located in Portland, Oregon. Each Party hereto and the Escrow Agent irrevocably waives any objection which it may have at any time to the laying of venue of any Proceeding brought in the United States District Court for the District of Oregon located in Portland, Oregon, waives any claim

EXHIBIT 2

that such Proceeding has been brought in an inconvenient forum and further waives the right to object, with respect to such Proceeding, that such court should not exercise its jurisdiction or should defer to some other judicial or administrative tribunal. In the event such court determines that the subject matter of the Proceeding does not fall within the statutory jurisdiction of U.S. District Courts or for any reason declines to exercise jurisdiction over the Proceeding, then the dispute shall be resolved by judicial proceedings in a court of the State of Oregon which has jurisdiction and venue. Except for the limited purpose specified in Section 12 below, each Party hereto and the Escrow Agent irrevocably waives any right it might otherwise have to seek to have any Proceeding determined in any tribal court and agrees that assumption of jurisdiction by any federal or state court shall not be delayed or curtailed by any doctrine requiring exhaustion of tribal court remedies. Neither of PGE's nor the Escrow Agent's entry into this Escrow Agreement shall be deemed to give rise to a consensual relationship that would establish the Tribes' jurisdiction over PGE's or the Escrow Agent's activities.

12. Determination by FERC or Arbitration if No U.S. District Court or Oregon State Court Jurisdiction. In the event both the United States District Court for the District of Oregon and the courts of the State of Oregon determine that the subject matter of the Proceeding does not fall within their statutory jurisdiction or for any reason both decline to exercise jurisdiction over the Proceeding, then the Parties and the Escrow Agent, as the case may be, shall first seek to have such Proceeding determined by FERC. The Parties and the Escrow Agent further agree that in the event any Proceeding is so brought to FERC and FERC declines to determine the Proceeding, then the Parties and the Escrow Agent, as the case may be, shall submit the Proceeding to arbitration in Portland, Oregon under the Commercial Arbitration Rules of the American Arbitration Association. The Parties and the Escrow Agent agree that any such Proceeding shall be submitted to three arbitrators selected by the American Arbitration Association from its panel of arbitrators. The arbitrators shall not have authority to award exemplary, punitive, or speculative damages or damages based on or measured by tort or other non-contractual principles. The Parties and the Escrow Agent further agree that they will faithfully observe this Escrow Agreement and the rules, that they will abide by and perform any award rendered by the arbitrators and that a judgment of a court having jurisdiction may be entered upon the award; provided, however, the award may be challenged and modified in whole or part or denied enforcement in whole or part, but only on the basis that the award exceeded the scope of the arbitrators' authority under this Escrow Agreement or the Federal Arbitration Act. In the event neither a federal court nor an Oregon court has, or will accept, jurisdiction to enter an order upon the award, then the Tribes and PGE agree that a tribal court judge pro tempore of the Warm Springs Tribal Court shall have jurisdiction exclusively for the purpose of entering an order upon the award. The tribal court judge pro tempore shall be a retired federal court judge who shall be selected from a publicly available list of retired federal court judges, by mutual agreement of the Tribes and PGE, with each of the Tribes and PGE proposing three names from such list to the other and the Tribes and PGE seeking to reach agreement on a judge from such proposed names within fifteen days after the exchange of their respective lists of three names. If the Tribes and PGE are unable to agree on a judge from such list, the selection shall be made from such publicly available list by the CPR Institute for Dispute Resolution, 366 Madison Ave., New York, NY ("CPR"). If CPR is unable or unwilling to select such judge, then the selection shall be made

EXHIBIT 2

from such publicly available lists, taking into consideration the names provided on the lists proposed by the Tribes and PGE, by another alternative dispute resolution service agreeable to the Tribes and PGE. Judges proposed or selected shall provide to each of the Tribes and PGE statements of any relationships with either Party. Any judge selected shall be impartial and shall not have disqualifying relationships with any Party.

13. Severability. If any provision of this Escrow Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any Party or Escrow Agent under this Escrow Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Escrow Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Escrow Agreement shall remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and (d) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Escrow Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

14. Resignation. Escrow Agent may resign by giving notice in writing to the Parties as provided herein of its intent to so resign. Resignation shall become effective upon the first to occur of (a) the execution by a substitute escrow agent of a written acceptance of responsibilities hereunder and (b) thirty (30) days after the effective date of Escrow Agent=s notice of intent to resign.

15. No Effect on Other Agreements. This Escrow Agreement has been delivered pursuant to the Settlement and Compensation Agreement and the Asset Purchase Agreement for the purpose of fulfilling the rights and obligations of the Parties as set forth therein. This Escrow Agreement is not intended to and shall not modify or amend the respective rights and obligations of the Parties under such agreements or any other agreement between the Parties, except and to the extent of obligations to be performed hereunder. Closing of the escrow, or termination of this Escrow Agreement, shall not terminate, waive, release or otherwise relinquish in any way any right or obligation of either Party or any Person under any agreement to which such Party or Person or any other Person may be bound.

16. Fees. The Parties shall share equally the cost of the fees paid by the Title Company to carry out its responsibilities under this Escrow Agreement.

17. Miscellaneous. This Escrow Agreement embodies the entire agreement and understanding among the parties and supersedes all prior agreements and understandings relating to the subject matter thereof. This Escrow Agreement may not be modified or amended or any term or provisions hereof waived or discharged except in writing signed by the party against whom such amendment, modification, waiver or discharge is sought to be enforced. All the terms of this Escrow Agreement, whether so expressed or not, shall be binding upon the respective successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties and their

respective successors and assigns. This Escrow Agreement may be executed in (a) counterparts, a complete set of which shall constitute an original and/or (b) duplicates, each of which shall constitute an original. Copies of this Escrow Agreement showing the signatures of the Parties and Escrow Agent may be used for all purposes as originals (whether produced by photographic, digital, computer, or other means of reproduction).

18. No Consequential, Incidental or Punitive Damages.

THE PARTIES AND THE ESCROW AGENT AGREE THAT IN NO EVENT SHALL ANY OF THEM BE LIABLE TO ANY OTHER(S) OF THEM HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER CONSEQUENTIAL (INCLUDING REPLACEMENT POWER COSTS), PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM THE SOLE, JOINT OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BAD FAITH OF EITHER PARTY OR THE ESCROW AGENT.

19. Termination of Settlement and Compensation Agreement Prior to Satisfaction of Escrow Conditions. In the event the Settlement and Compensation Agreement is terminated prior to satisfaction of all the Escrow Conditions, then this Escrow Agreement shall terminate simultaneously with the termination of the Settlement and Compensation Agreement.

SIGNATURE PAGE FOLLOWS

EXHIBIT 2

IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of the day and year first above written.

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

By: _____
Name: Olney Patt, Jr.
Title: Chairman

PORTLAND GENERAL ELECTRIC COMPANY

By: _____
Name: Ronald W. Johnson
Title: Vice President, Power Supply

Jefferson County Title Company

By: Deborah Rauscher
Name: Debbie Rauscher
Title: Vice President / Assistant County Manager

EXHIBIT 2

SCHEDULE A

Escrow Documents and Instructions for Delivery

1. Bill of Sale dated as of January 1, 2002. Original to the Tribes and copy to PGE.

2. The following deeds of conveyance:

Bargain and Sale Deed dated as of January 1, 2002.

Originals to the Tribes and one copy of each to PGE.

3. The following instruments of assignment or conveyance:

Partial Assignment of Easements and Assumption Agreement dated as of January 1, 2002.

Originals to the Tribes and one copy of each to PGE.

4. Ownership and Operation Agreement for the Pelton and Round Butte Dams and Generating Facilities by The Confederated Tribes of the Warm Springs Reservation of Oregon and Portland General Electric Company, dated as of January 1, 2002. One original to each of the Tribes and PGE.

5. Mutual General Release by The Confederated Tribes of the Warm Springs Reservation of Oregon and Portland General Electric Company, dated as of January 1, 2002. One original to each of the Tribes and PGE.

6. Asset Purchase Agreement Between The Confederated Tribes of the Warm Springs Reservation of Oregon and Portland General Electric Company, dated as of January 1, 2002 at 12:15 a.m. One original to each of the Tribes and PGE.

EXHIBIT 2

SCHEDULE B

Escrow Conditions

The Escrow Conditions under the foregoing Escrow Agreement consist of the following:

1. The occurrence of 0015 hours Pacific time on January 1, 2002.

EXHIBIT 2

DOCUMENT ESCROW AGREEMENT

This DOCUMENT ESCROW AGREEMENT ("Escrow Agreement"), is dated as of January 1, 2002 and is by and among The Confederated Tribes of the Warm Springs Reservation of Oregon, a federally recognized Indian tribe having a Constitution and Bylaws and Corporate Charter adopted pursuant to the terms of the Indian Reorganization Act, including its governing body the Tribal Council (the "Tribes"), Portland General Electric Company, an Oregon corporation ("PGE") and Jefferson County Title ("Escrow Agent"). (The Tribes and PGE are each referred to individually herein as a "Party" and collectively as the "Parties.")

Definitions

Unless otherwise defined in this Escrow Agreement, terms defined in the Long-Term Global Settlement and Compensation Agreement dated April 12, 2000 ("Settlement and Compensation Agreement" and the Asset Purchase Agreement between the Parties dated as of January 1, 2002 (the "Asset Purchase Agreement") shall have the same meanings when used herein as in such agreements.

Introductory Statement

The Parties have executed (and/or have received from third parties) the documents listed in Schedule A hereto (the "Escrow Documents") pursuant to the Settlement and Compensation Agreement and the Asset Purchase Agreement. The Parties desire that delivery of the Escrow Documents, and the effectiveness thereof, be conditioned and contingent entirely upon satisfaction of the Escrow Conditions (as defined below) and wish to place the Escrow Documents in escrow with Escrow Agent pending satisfaction or failure of the Escrow Conditions. However, the Parties desire that such escrow shall not continue after March 31 , 2002 (the "Outside Date"); and the Parties intend that, if the Escrow Conditions are not satisfied on or before 5:00 p.m. Portland, Oregon time on the Outside Date, the Escrow Documents shall be void and of no further force and effect whatsoever.

EXHIBIT 2

NOW, THEREFORE, in consideration of Ten Dollars ($10) and other good and valuable consideration, and intending to be legally bound hereby, the Parties and Escrow Agent agree as follows:

1. Escrow Deposit. The Parties herewith deliver the Escrow Documents to Escrow Agent. Escrow Agent agrees to hold the Escrow Documents in escrow upon the terms, and subject to the conditions, of this Escrow Agreement.

2. Escrow Conditions. The "Escrow Conditions" are defined and set forth on Schedule B hereto.

3. Instructions to Escrow Agent.

(a) If the Escrow Conditions are satisfied before 5:00 p.m. Portland, Oregon time on the Outside Date, time being of the essence, Escrow Agent shall distribute the Escrow Documents in accordance with the distribution instructions in Schedule A hereto. The Parties agree that distribution of the Escrow Documents by Escrow Agent in accordance with the instructions in Schedule A shall be deemed to complete delivery of the Escrow Documents under the Settlement and Compensation Agreement and the Asset Purchase Agreement. Upon such distribution of the Escrow Documents by the Escrow Agent this Escrow Agreement shall terminate.

(b) If the Escrow Conditions are not satisfied before 5:00 p.m. Portland, Oregon time on the Outside Date, time being of the essence, the Escrow Documents shall be deemed void and of no force and effect whatsoever, provided that such deemed voiding of the Escrow Documents shall have no effect upon the remaining rights, obligations and remedies of the Parties as provided in the Settlement and Compensation Agreement and the Asset Purchase Agreement, each of which has been fully executed and delivered by the Parties contemporaneously herewith and is not otherwise subject to this escrow. Escrow Agent shall hold the Escrow Documents for thirty (30) days after the Outside Date and, promptly thereafter, unless Escrow Agent shall have previously received a written agreement signed by both Parties directing otherwise (which neither Party shall have any obligation to sign), Escrow Agent shall destroy all the Escrow Documents to signify that the same are void and of no force and effect whatsoever whereupon this Escrow Agreement shall terminate.

4. Limitations on Escrow Agent's Responsibilities. Escrow Agent shall have no duties or responsibilities except those set forth herein, which the Parties agree are ministerial in nature. Escrow Agent shall have no duty to know or determine the performance or non-performance of any provision of any agreement between the Parties, including with respect to the Settlement and Compensation Agreement and the Asset Purchase Agreement. Except for Escrow Agent's own willful default or gross negligence, Escrow Agent shall have no liability for the performance of any duties imposed upon Escrow Agent under this Escrow Agreement. Escrow Agent may rely and/or act upon any instrument or document which Escrow Agent believes to be genuine and to have been executed and/or delivered by the proper person. Escrow Agent may assume that any person

purporting to give any notice or instructions in accordance with the provisions of this Escrow Agreement has been duly authorized to do so. Escrow Agent shall not be bound by any amendment, modification, cancellation or rescission of this Escrow Agreement unless in writing, signed by the Parties and delivered to Escrow Agent. No assignment, transfer, conveyance or hypothecation of any right, title or interest in and to the subject matter of this Escrow Agreement shall be binding upon Escrow Agent unless written notice thereof shall be served upon Escrow Agent.

5. Uncertainty/Disputes. If Escrow Agent is uncertain for any reason whatsoever as to its duties or rights under this Escrow Agreement, or if Escrow Agent receives instructions from any person which (in Escrow Agent's sole judgment) conflict with this Escrow Agreement, notwithstanding any provision hereof to the contrary Escrow Agent may act as follows:

(a) Escrow Agent may continue to hold the Escrow Documents until Escrow Agent receives either (i) a written agreement of both Parties with respect to the disposition of the Escrow Documents or (ii) a final non-appealable order of a court of competent jurisdiction entered in a proceeding in which both Parties are named that directs the disposition of the Escrow Documents, in which event Escrow Agent shall distribute the Escrow Documents in accordance with such agreement or court order, as applicable; and/or

(b) Escrow Agent may take such other action as Escrow Agent deems necessary or desirable, in its discretion, to discharge and terminate its duties under this Escrow Agreement, including delivery of the Escrow Documents into a court as provided in Section 11 hereof and/or bringing in such court of an action of interpleader or any other proceedings in such court which Escrow Agent deems appropriate.

In any event, the Parties shall be jointly and severally liable for, and shall pay promptly, reasonable attorney's fees and costs incurred by Escrow Agent for any litigation in which Escrow Agent is named as, or becomes, a party, or which is brought by Escrow Agent, under or with respect to this Escrow Agreement.

6. Indemnity. The Parties (jointly and severally) shall reimburse Escrow Agent (and hereby agree to indemnify and hold Escrow Agent harmless against) loss, liability, cost or expense in connection with this Escrow Agreement and/or performance of Escrow Agent's duties hereunder, including defending against any claim or liability arising out of or relating to this Escrow Agreement. As between the Parties, all fees, costs and indemnities of Escrow Agent shall be shared equally by each of them.

7. Release. The Parties hereby release Escrow Agent from any act done or omitted to be done in good faith in the performance of its duties under this Escrow Agreement excepting gross negligence or willful misconduct. However, paragraphs 5 and 6 above shall not require reimbursement to, or indemnification of, Escrow Agent in any legal action in which there

EXHIBIT 2

is a determination, final beyond appeal, of gross negligence or willful misconduct on the part of Escrow Agent.

8. Notices. Unless this Agreement specifically requires otherwise, any notice, demand or request provided for in this Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by telegraph, telex, or fax or by acknowledged delivery, or sent by registered or certified mail, postage prepaid to the person specified below:

If to the Parties:

To the Tribes:

Confederated Tribes of the Warm Springs Reservation
Chairman, Tribal Council
P. O. Box C
Warm Springs, OR 97761

with a copy to:

Mr. Dennis C. Karnopp, Esq.
Karnopp, Petersen, Noteboom, Hansen, Arnett, & Sayeg LLP
1201 NW Wall St.
Suite 300
Bend, OR 97701

To PGE:

Portland General Electric Company
Attention: Vice President, Power Supply
1 World Trade Center-17
121 SW Salmon Street
Portland, OR 97204

with a copy to:

Portland General Electric Company
Attention: General Counsel
1 World Trade Center-17
121 SW Salmon Street
Portland, OR 97204

EXHIBIT 2

If to Escrow Agent:

Jefferson County Title Company
534 SW 4th Street
Madras, OR 97741
Attention: Debbie Rauscher

Notice given pursuant to this Section 8 shall be effective upon physical receipt by both of the two non-notifying parties.

9. Waiver of Immunity. The Tribes acknowledge and agree that in entering into this Escrow Agreement, they may incur obligations to the Escrow Agent, PGE, and each of their respective successors and assigns, and may become liable to these parties for injunctive or declaratory relief or for damages. The Tribes further acknowledge that the Escrow Agent and PGE would not enter into this Escrow Agreement with the Tribes if the Tribes could defeat or hinder enforcement against them of the rights granted to the Escrow Agent or PGE by claiming sovereign immunity. THIS WAIVER OF THE SOVEREIGN IMMUNITY OF THE TRIBES FROM SUIT OR ACTION IS ADOPTED PURSUANT TO THE TERMS OF WARM SPRINGS TRIBAL CODE CHAPTER 30 AND SHALL BE STRICTLY CONSTRUED AND LIMITED TO ITS SPECIFIC TERMS AND THE SPECIFIC WAIVER GRANTED. THE TRIBES HEREBY CONSENT TO SUIT, ARBITRATION, ENFORCEMENT AND COLLECTION OF JUDGMENTS, AWARDS, INJUNCTIONS AND DECLARATORY JUDGMENTS AS TO ANY OBLIGATIONS ARISING OUT OF THIS ESCROW AGREEMENT. THE TRIBES HEREBY EXPRESSLY WAIVE, WITHOUT LIMITATION, ANY CLAIM OR ASSERTION OF SOVEREIGN IMMUNITY FROM SUIT IN ACTIONS TO INTERPRET OR ENFORCE ANY PROVISION OF OR RIGHTS GRANTED IN THIS ESCROW AGREEMENT, TO SEEK JUDGMENT FOR MONETARY OBLIGATIONS ARISING UNDER THIS ESCROW AGREEMENT, AND TO ENFORCE AND COLLECT ANY JUDGMENT IN ANY SUIT OR ARBITRATION CONCERNING OR ARISING OUT OF THIS ESCROW AGREEMENT.

10. Choice of Laws. This Escrow Agreement shall be governed by, and construed, interpreted and enforced in accordance with, the substantive law of the State of Oregon (without reference to any principles of conflicts of laws), except to the extent such Oregon laws may be preempted by the laws of the United States of America.

11. Jurisdiction and Venue. The Parties and the Escrow Agent agree that any disputes concerning, relating to or arising out of this Escrow Agreement present a federal question. With respect to any proceedings, suit or action relating to this Escrow Agreement or the subject matter hereof, (collectively referred to as "Proceedings") each Party and the Escrow Agent irrevocably submits to the exclusive jurisdiction of the United States District Court for the District of Oregon located in Portland, Oregon. Each Party hereto and the Escrow Agent irrevocably waives any objection which it may have at any time to the laying of venue of any Proceeding brought in the United States District Court for the District of Oregon located in Portland, Oregon, waives any claim

that such Proceeding has been brought in an inconvenient forum and further waives the right to object, with respect to such Proceeding, that such court should not exercise its jurisdiction or should defer to some other judicial or administrative tribunal. In the event such court determines that the subject matter of the Proceeding does not fall within the statutory jurisdiction of U.S. District Courts or for any reason declines to exercise jurisdiction over the Proceeding, then the dispute shall be resolved by judicial proceedings in a court of the State of Oregon which has jurisdiction and venue. Except for the limited purpose specified in Section 12 below, each Party hereto and the Escrow Agent irrevocably waives any right it might otherwise have to seek to have any Proceeding determined in any tribal court and agrees that assumption of jurisdiction by any federal or state court shall not be delayed or curtailed by any doctrine requiring exhaustion of tribal court remedies. Neither of PGE's nor the Escrow Agent's entry into this Escrow Agreement shall be deemed to give rise to a consensual relationship that would establish the Tribes' jurisdiction over PGE's or the Escrow Agent's activities.

12. Determination by FERC or Arbitration if No U.S. District Court or Oregon State Court Jurisdiction. In the event both the United States District Court for the District of Oregon and the courts of the State of Oregon determine that the subject matter of the Proceeding does not fall within their statutory jurisdiction or for any reason both decline to exercise jurisdiction over the Proceeding, then the Parties and the Escrow Agent, as the case may be, shall first seek to have such Proceeding determined by FERC. The Parties and the Escrow Agent further agree that in the event any Proceeding is so brought to FERC and FERC declines to determine the Proceeding, then the Parties and the Escrow Agent, as the case may be, shall submit the Proceeding to arbitration in Portland, Oregon under the Commercial Arbitration Rules of the American Arbitration Association. The Parties and the Escrow Agent agree that any such Proceeding shall be submitted to three arbitrators selected by the American Arbitration Association from its panel of arbitrators. The arbitrators shall not have authority to award exemplary, punitive, or speculative damages or damages based on or measured by tort or other non-contractual principles. The Parties and the Escrow Agent further agree that they will faithfully observe this Escrow Agreement and the rules, that they will abide by and perform any award rendered by the arbitrators and that a judgment of a court having jurisdiction may be entered upon the award; provided, however, the award may be challenged and modified in whole or part or denied enforcement in whole or part, but only on the basis that the award exceeded the scope of the arbitrators' authority under this Escrow Agreement or the Federal Arbitration Act. In the event neither a federal court nor an Oregon court has, or will accept, jurisdiction to enter an order upon the award, then the Tribes and PGE agree that a tribal court judge pro tempore of the Warm Springs Tribal Court shall have jurisdiction exclusively for the purpose of entering an order upon the award. The tribal court judge pro tempore shall be a retired federal court judge who shall be selected from a publicly available list of retired federal court judges, by mutual agreement of the Tribes and PGE, with each of the Tribes and PGE proposing three names from such list to the other and the Tribes and PGE seeking to reach agreement on a judge from such proposed names within fifteen days after the exchange of their respective lists of three names. If the Tribes and PGE are unable to agree on a judge from such list, the selection shall be made from such publicly available list by the CPR Institute for Dispute Resolution, 366 Madison Ave., New York, NY ("CPR"). If CPR is unable or unwilling to select such judge, then the selection shall be made

EXHIBIT 2

from such publicly available lists, taking into consideration the names provided on the lists proposed by the Tribes and PGE, by another alternative dispute resolution service agreeable to the Tribes and PGE. Judges proposed or selected shall provide to each of the Tribes and PGE statements of any relationships with either Party. Any judge selected shall be impartial and shall not have disqualifying relationships with any Party.

13. Severability. If any provision of this Escrow Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any Party or Escrow Agent under this Escrow Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Escrow Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Escrow Agreement shall remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and (d) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Escrow Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

14. Resignation. Escrow Agent may resign by giving notice in writing to the Parties as provided herein of its intent to so resign. Resignation shall become effective upon the first to occur of (a) the execution by a substitute escrow agent of a written acceptance of responsibilities hereunder and (b) thirty (30) days after the effective date of Escrow Agent=s notice of intent to resign.

15. No Effect on Other Agreements. This Escrow Agreement has been delivered pursuant to the Settlement and Compensation Agreement and the Asset Purchase Agreement for the purpose of fulfilling the rights and obligations of the Parties as set forth therein. This Escrow Agreement is not intended to and shall not modify or amend the respective rights and obligations of the Parties under such agreements or any other agreement between the Parties, except and to the extent of obligations to be performed hereunder. Closing of the escrow, or termination of this Escrow Agreement, shall not terminate, waive, release or otherwise relinquish in any way any right or obligation of either Party or any Person under any agreement to which such Party or Person or any other Person may be bound.

16. Fees. The Parties shall share equally the cost of the fees paid by the Title Company to carry out its responsibilities under this Escrow Agreement.

17. Miscellaneous. This Escrow Agreement embodies the entire agreement and understanding among the parties and supersedes all prior agreements and understandings relating to the subject matter thereof. This Escrow Agreement may not be modified or amended or any term or provisions hereof waived or discharged except in writing signed by the party against whom such amendment, modification, waiver or discharge is sought to be enforced. All the terms of this Escrow Agreement, whether so expressed or not, shall be binding upon the respective successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties and their

EXHIBIT 2

respective successors and assigns. This Escrow Agreement may be executed in (a) counterparts, a complete set of which shall constitute an original and/or (b) duplicates, each of which shall constitute an original. Copies of this Escrow Agreement showing the signatures of the Parties and Escrow Agent may be used for all purposes as originals (whether produced by photographic, digital, computer, or other means of reproduction).

18. No Consequential, Incidental or Punitive Damages.

THE PARTIES AND THE ESCROW AGENT AGREE THAT IN NO EVENT SHALL ANY OF THEM BE LIABLE TO ANY OTHER(S) OF THEM HEREUNDER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER CONSEQUENTIAL (INCLUDING REPLACEMENT POWER COSTS), PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT OF THIS AGREEMENT OR FOR ANY BREACH OR FAILURE OF PERFORMANCE RELATED HERETO HOWSOEVER CAUSED, WHETHER OR NOT ARISING FROM THE SOLE, JOINT OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BAD FAITH OF EITHER PARTY OR THE ESCROW AGENT.

19. Termination of Settlement and Compensation Agreement Prior to Satisfaction of Escrow Conditions. In the event the Settlement and Compensation Agreement is terminated prior to satisfaction of all the Escrow Conditions, then this Escrow Agreement shall terminate simultaneously with the termination of the Settlement and Compensation Agreement.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of the day and year first above written.

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

By: Olney Patt, Jr.
Name: Olney Patt, Jr.
Title: Chairman

PORTLAND GENERAL ELECTRIC COMPANY

By: Ronald W. Johnson dpt
Name: Ronald W. Johnson
Title: Vice President, Power Supply

Jefferson County Title Company

By: Deborah Rauscher
Name: Debbie Rauscher
Title: Vice President / Assistant County Manager

EXHIBIT 2

SCHEDULE A

Escrow Documents and Instructions for Delivery

1. Bill of Sale dated as of January 1, 2002. Original to the Tribes and copy to PGE.

2. The following deeds of conveyance:

   Bargain and Sale Deed dated as of January 1, 2002.

   Originals to the Tribes and one copy of each to PGE.

3. The following instruments of assignment or conveyance:

   Partial Assignment of Easements and Assumption Agreement dated as of January 1, 2002.

   Originals to the Tribes and one copy of each to PGE.

4. Ownership and Operation Agreement for the Pelton and Round Butte Dams and Generating Facilities by The Confederated Tribes of the Warm Springs Reservation of Oregon and Portland General Electric Company, dated as of January 1, 2002. One original to each of the Tribes and PGE.

5. Mutual General Release by The Confederated Tribes of the Warm Springs Reservation of Oregon and Portland General Electric Company, dated as of January 1, 2002. One original to each of the Tribes and PGE.

6. Asset Purchase Agreement Between The Confederated Tribes of the Warm Springs Reservation of Oregon and Portland General Electric Company, dated as of January 1, 2002 at 12:15 a.m. One original to each of the Tribes and PGE.

EXHIBIT 2

EXHIBIT 3

Madras Solar-PGE QF-LGIA, dated April 8, 2021

QUALIFYING FACILITY LARGE GENERATOR INTERCONNECTION AGREEMENT (QF-LGIA)

(Applicable to Qualifying Facilities in Oregon that exceed 20 MW)

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STANDARD QUALIFYING FACILITY LARGE GENERATOR INTERCONNECTION AGREEMENT

THIS STANDARD QUALIFYING FACILITY LARGE GENERATOR INTERCONNECTION AGREEMENT ("Agreement" or "QF-LGIA") is made and entered into this 8th day of April 2021, by and between **Madras Solar PV1, LLC,** a corporation organized and existing under the laws of the State of Oregon ("Interconnection Customer" with a Large Generating Facility), and **Portland General Electric Company**, a corporation organized and existing under the laws of the State of Oregon ("Transmission Provider and/or Transmission Owner"). Interconnection Customer and Transmission Provider each may be referred to singly as a "Party" or collectively as the "Parties."

Recitals

WHEREAS, Transmission Provider operates the Transmission System; and

WHEREAS, Interconnection Customer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this Agreement; and

WHEREAS, Interconnection Customer has completed the certification process for the Generating Facility as a qualifying cogeneration facility or qualifying small power production facility ("Qualifying Facility" or "QF") within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3; and

WHEREAS, the Oregon Public Utility Commission has jurisdiction to establish minimum criteria that a qualifying cogeneration facility or qualifying small power production facility must meet in order to operate in Oregon; and

WHEREAS, Interconnection Customer and Transmission Provider have agreed to enter into this QF-LGIA for the purpose of interconnecting the Large Generating Facility with the Transmission System.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this QF-LGIA, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used.

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Article 1. Definitions

Adverse System Impact shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

Affected System shall mean an electric system other than the Transmission Provider's Transmission System that may be affected by the proposed interconnection.

Affected System Operator shall mean the entity that operates an Affected System.

Affiliate shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

Agreement shall mean this QF-LGIA entered into by and between Interconnection Customer and Transmission Provider.

Ancillary Services shall mean those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider's Transmission System in accordance with Good Utility Practice.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

Applicable Reliability Council shall mean the reliability council applicable to the Transmission System to which the Generating Facility is directly interconnected.

Applicable Reliability Standards shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Control Area of the Transmission System to which the Generating Facility is directly interconnected.

Base Case shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies by the Transmission Provider or Interconnection Customer.

Breach shall mean the failure of a Party to perform or observe any material term or condition of the QF-LGIA.

Breaching Party shall mean a Party that is in Breach of the QF-LGIA. **Business Day** shall mean Monday through Friday, excluding Federal Holidays.

Calendar Day shall mean any day including Saturday, Sunday or a Federal Holiday.

Clustering shall mean the process whereby a group of Interconnection Requests is studied together, instead of serially, for the purpose of conducting the Interconnection System Impact Study.

Commercial Operation shall mean the status of a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

Commercial Operation Date of a unit shalt mean the date on which the Generating Facility commences Commercial Operation as agreed to by the Parties pursuant to Appendix E to the QF-LGIA.

Confidential Information shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise.

Control Area shall mean an electrical system or systems bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the interconnection. A Control Area must be certified by an Applicable Reliability Council.

Default shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of the QF-LGIA.

Dispute Resolution shall mean the procedure for resolution of a dispute between the Parties in which they will first attempt to resolve the dispute on an informal basis.

Distribution System shall mean the Transmission Provider's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which distribution systems operate differ among areas.

Distribution Upgrades shall mean the additions, modifications, and upgrades to the Transmission Provider's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility. Distribution Upgrades do not include Interconnection Facilities.

Effective Date shall mean the date on which the QF-LGIA becomes effective upon execution by the Parties.

Emergency Condition shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of a Transmission Provider, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to Transmission Provider's Transmission System, Transmission Provider's Interconnection Facilities or the electric systems of others to which the Transmission Provider's Transmission System is directly connected; or

(3) that, in the case of Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided that Interconnection Customer is not obligated by the QF-LGIA to possess black start capability.

Engineering & Procurement (E&P) Agreement shall mean an agreement that authorizes the Transmission Provider to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request.

Environmental Law shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a *et* seq.

FERC shall mean the Federal Energy Regulatory Commission (FERC) or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Generating Facility shall mean Interconnection Customer's device or devices for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities. The Generating Facility is and shall remain a Qualifying Facility.

Generating Facility Capacity shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing

authority or power; provided, however, that such term does not include Interconnection Customer, Transmission Provider, or any Affiliate thereof.

Hazardous Substances shall mean any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Initial Synchronization Date shall mean the date upon which the Generating Facility is initially synchronized and upon which Trial Operation begins.

In-Service Date shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Transmission Provider's Interconnection Facilities to obtain back feed power.

Interconnection Customer shall mean the entity identified in the first paragraph of this QF-LGIA that proposes to interconnect its Generating Facility with the Transmission Provider's Transmission System.

Interconnection Customer's Interconnection Facilities or ICIF shall mean all facilities and equipment, as identified in Appendix A of the QF-LGIA, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider's Transmission System. Interconnection Customer's Interconnection Facilities are sole use facilities.

Interconnection Facilities shall mean the Transmission Provider's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

Interconnection Facilities Study shall mean a study conducted by the Transmission Provider or a third party consultant for the Interconnection Customer to determine a list of facilities (including Transmission Provider's Interconnection Facilities, Distribution Upgrades and Network Upgrades as identified in the Interconnection System Impact Study), the cost of those facilities, and the time required to interconnect the Generating Facility with the Transmission Provider's Transmission System. The scope of the study is defined in Article 8 of the QF-LGIP.

Interconnection Facilities Study Agreement shall mean the form of agreement contained in Appendix 4 of the QF-LGIP for conducting the Interconnection Facilities Study.

Interconnection Feasibility Study shall mean a preliminary evaluation of the system impact and cost of interconnecting the Generating Facility to the Transmission Provider's Transmission System, the scope of which is described in Section 6 of the QF-LGIP.

Interconnection Feasibility Study Agreement shall mean the form of agreement contained in Appendix 2 of the QF-LGIP for conducting the Interconnection Feasibility Study.

Interconnection Request shall mean an Interconnection Customer's request, in the form of Appendix 1 to the QF-LGIP, to interconnect a new Generating Facility, or to increase the capacity of, or make a Material Modification to the operating characteristics of, an existing Generating Facility that is interconnected with the Transmission Provider's Transmission System.

Interconnection Service shall mean the service provided by the Transmission Provider associated with interconnecting the Interconnection Customer's Generating Facility to the Transmission Provider's Transmission System and enabling it to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of the QF-LGIA and, if applicable, the Transmission Provider's OATT.

Interconnection Study shall mean any of the following studies: the Interconnection Feasibility Study, the Interconnection System Impact Study, and the Interconnection Facilities Study described in the QF-LGIP.

Interconnection System Impact Study shall mean an engineering study that evaluates the impact of the proposed interconnection on the safety and reliability of Transmission Provider's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility were interconnected without project modifications or system modifications, focusing on the Adverse System Impacts identified in the Interconnection Feasibility Study, or to study potential impacts, including but not limited to those identified in the Scoping Meeting as described in the QF-LGIP.

Interconnection System Impact Study Agreement shall mean the form of agreement contained in Appendix 3 of the QF-LGIP for conducting the Interconnection System Impact Study.

IRS shall mean the Internal Revenue Service.

Large Generator Interconnection Agreement or **LGIA** shall mean the form of interconnection agreement applicable to an Interconnection Request under the Transmission Provider's OATT pertaining to a Large Generating Facility that is not a Qualifying Facility.

Large Generator Interconnection Procedures or **LGIP** shall mean the interconnection procedures contained in the Transmission Provider's OATT that are applicable to an Interconnection Request pertaining to a Large Generating Facility.

Large Generating Facility shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

Loss shall mean any and all losses relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's performance, or non-performance of its obligations under the QF-LGIA on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnifying Party.

Material Modification shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

Metering Equipment shall mean all metering equipment installed or to be installed at the Generating Facility pursuant to the QF-LGIA at the one or more metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, other communications conductors, and fiber optics.

NERC shall mean the North American Electric Reliability Council or its successor organization.

Net Output shall mean all energy and capacity produced by the Generating Facility and delivered to the Point of Delivery, net of transformation, transmission, or other losses, if any, and less Station Power.

Network Resource shall mean any designated generating resource owned, purchased, or leased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis.

Network Resource Interconnection Service shall mean an Interconnection Service that allows the Interconnection Customer to integrate its Large Generating Facility with the Transmission Provider's Transmission System (1) in a manner comparable to that in which the Transmission Provider integrates its generating facilities to serve native load customers; or (2) in an RTO or ISO with market based congestion management, in the same manner as all other Network Resources. Network Resource Interconnection Service in and of itself does not convey transmission service.

Network Upgrades shall mean the additions, modifications, and upgrades to the Transmission Provider's Transmission System required at or beyond the point at which the Interconnection Facilities connect to the Transmission Provider's Transmission System to accommodate the interconnection of the Large Generating Facility to the Transmission Provider's Transmission System.

Notice of Dispute shall mean a written notice of a dispute or claim that arises out of or in connection with the QF-LGIA or its performance.

Obligated Entity shall mean the entity with a contractual obligation to construct Network Upgrades.

OATT shall mean the Transmission Provider's Open Access Transmission Tariff on file with the Federal Energy Regulatory Commission ("FERC").

OPUC shall mean the Public Utility Commission of Oregon.

Optional Interconnection Study shall mean a sensitivity analysis based on assumptions specified by the Interconnection Customer in the Optional Interconnection Study Agreement.

Optional Interconnection Study Agreement shall mean the form of agreement contained in Appendix 5 of the QF-LGIP for conducting the Optional Interconnection Study.

Party or Parties shall mean Transmission Provider, Transmission Owner, Interconnection Customer or any combination of the above.

Point of Change of Ownership shall mean the point, as set forth in Appendix A to the QF-LGIA, where the Interconnection Customer's Interconnection Facilities connect to the Transmission Provider's Interconnection Facilities.

Point of Delivery shall mean the point on the Transmission Provider's Transmission System where capacity and energy will be made available to the Transmission Provider.

Point of Interconnection shall mean the point, as set forth in Appendix A to the QF-LGIA, where the Interconnection Facilities connect to the Transmission Provider's Transmission System.

Power System Stabilizers shall have the meaning designated in the guidelines and procedures established by the applicable Reliability Council.

Power Purchase Agreement ("PPA") shall mean a separate agreement between the Transmission Provider and Interconnection Customer, the terms of which govern the sale by the Interconnection Customer and the purchase by the Transmission Provider of the Net Output of the Interconnection Customer's Qualifying Facility, pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3.

QF-LGIA shall mean the Qualifying Facility Large Generator Interconnection Agreement.

QF-LGIP shall mean the Qualifying Facility Large Generator Interconnection Procedures applicable to any large Generating Facility that is also a Qualifying Facility and which seeks to interconnect to the Transmission Provider's Transmission System or Distribution system in Oregon.

Qualifying Facility or **QF** shall mean a qualifying cogeneration facility or qualifying small power production facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3.

Queue Position shall mean the order of a valid Interconnection Request, relative to all other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by the Transmission Provider.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under the QF-LGIA, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

Scoping Meeting shall mean the meeting between representatives of the Interconnection Customer and Transmission Provider conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

Site Control shall mean documentation reasonably demonstrating: (1) ownership of a leasehold interest in, or a right to develop a site for the purpose of constructing the Generating Facility; (2) an option to purchase or acquire a leasehold site for such purpose; or (3) an exclusivity or other business relationship between Interconnection Customer and the entity having the right to sell, lease or grant Interconnection Customer the right to possess or occupy a site for such purpose.

Small Generating Facility shall mean a Generating Facility that has a Generating Facility Capacity of no more than 10 MW.

Stand Alone Network Upgrades shall mean Network Upgrades that an Interconnection Customer may construct without affecting day-to-day operations of the Transmission System during their construction. Both the Transmission Provider and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to the QF-LGIA.

Station Power shall mean electric power used in the process of producing power at Interconnection Customer's Generating Facility, including but not limited to the electric power necessary for auxiliary equipment such as pumps, blowers, fans, fuel transportation systems, similar auxiliary systems that are a necessary and integral part of the power production process, and other parasitic loads involved in the generating process.

System Protection Facilities shall mean the equipment, including necessary protection signal communications equipment, required to protect (1) the Transmission Provider's Transmission System from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the Transmission Provider's Transmission System or on other delivery systems or other generating systems to which the Transmission Provider's Transmission System is directly connected.

Transmission Owner shall mean an entity that owns, leases or otherwise possesses an interest in the portion of the Transmission System at the Point of Interconnection and may be a Party to the QF-LGIA to the extent necessary.

Transmission Provider shall mean the applicable Utility.

Transmission Provider's Interconnection Facilities shall mean all facilities and equipment owned, controlled, or operated by the Transmission Provider from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to the QF-LGIA, including any modifications, additions or upgrades to such facilities and equipment. Transmission Provider's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

Transmission System shall mean the facilities owned, controlled or operated by the Transmission Provider or Transmission Owner that are used to provide transmission service under the OATT.

Trial Operation shall mean the period during which Interconnection Customer is engaged in on-site test operations and commissioning of the Generating Facility prior to Commercial Operation.

Article 2. Effective Date, Term, and Termination

2.1 Effective Date

This QF-LGIA shall become effective upon execution by the Parties.

2.2 Term of Agreement

Subject to the provisions of Article 2.3, this QF-LGIA shall remain in effect for a period of ten (10) years from the Effective Date or such other longer period as agreed upon by the parties and shall be automatically renewed for each successive one-year period thereafter provided: (1) Interconnection Customer gives Transmission Provider written notice no less than 90 calendar days in advance of the end of the initial ten year term and no less than 90 calendar days before the end of each successive one year renewal term of Interconnection Customer's desire to renew; and (2) Transmission Provider reasonably determines that no material change has occurred to the specific circumstances surrounding the individual QF-LGIA, including government regulation of the subject matter of the QF-LGIA and Transmission Provider's interconnection standards. If Interconnection Customer gives notice of desire to renew in accordance with this Article 2.2, Transmission Provider shall give Interconnection Customer notice of Transmission Provider's determination regarding the existence of material change, made in accordance with this Article 2.2, no later than 60 calendar days after receipt of the Interconnection Customer's notice of desire to renew. If Transmission Provider reasonably determines that there has been a material change in the circumstances surrounding the QF-LGIA, then the Interconnection Customer must initiate a new interconnection request under the QF-LGIP in order to pursue a successor interconnection agreement to this QF-LGIA.

2.3 Termination Procedures

2.3.1 Written Notice

This QF-LGIA may be terminated by Interconnection Customer after giving Transmission Provider ninety (90) Calendar Days advance written notice, or by Transmission Provider notifying OPUC after the Generating Facility permanently ceases Commercial Operation.

2.3.2 Default

Either Party may terminate this QF-LGIA in accordance with Article 17.

2.3.3 Notwithstanding Articles 2.3.1 and 2.3.2, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination.

2.3.4 Change in Qualifying Facilities Status

Interconnection Customer has represented that its Generating Facility is a Qualifying Facility. As a Qualifying Facility selling its Net Output exclusively to Transmission Provider, the OPUC has regulatory authority over the interconnection of the Generating Facility with Transmission Provider's Transmission System. If, at any time during the term of this QF-LGIA, all or a portion of the output of the Qualifying Facility is scheduled to be, or is, sold to someone other than Transmission Provider, then regulatory authority for this interconnection will fall under the jurisdiction of the FERC and this QF-LGIA shall terminate upon the date such electric output from the Generating Facility is first produced for sale to such other party, and no later than sixty (60) days prior to such termination date, Interconnection Customer shall enter into a new Large Generator Interconnection Agreement with Transmission Provider pursuant to Transmission Provider's OATT. Interconnection Customer acknowledges and agrees that it may take substantially more than sixty (60) days to submit an interconnection request and complete any required portions of the interconnection process under the Transmission Provider's OATT before the Transmission Provider can offer the Interconnection Customer a new Large Generator Interconnection Agreement under the OATT. Interconnection Customer is responsible for initiating the interconnection process under the Transmission Provider's OATT early enough to allow for completion of the interconnection process before the Interconnection Customer requires a new Large Generator Interconnection Agreement under this Article 2.3.4.

2.4 Termination Costs

If a Party elects to terminate this QF-LGIA pursuant to Article 2.3 above, each Party shall pay all costs incurred on its behalf (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) or charges assessed by the other Party, as of the date of the other Party's receipt of such notice of termination, that are the

responsibility of the Terminating Party under this QF-LGIA. In the event of termination by a Party, the Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this QF-LGIA, unless otherwise ordered or approved by the OPUC:

2.4.1 With respect to any portion of Transmission Provider's Interconnection Facilities that have not yet been constructed or installed, Transmission Provider shall to the extent possible and with Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Interconnection Customer elects not to authorize such cancellation, Interconnection Customer shall assume all payment obligations with respect to such materials, equipment, and contracts, and Transmission Provider shall deliver such material and equipment, and, if necessary, assign such contracts, to Interconnection Customer as soon as practicable, at Interconnection Customer's expense. To the extent that Interconnection Customer has already paid Transmission Provider for any or all such costs of materials or equipment not taken by Interconnection Customer, Transmission Provider shall promptly refund such amounts to Interconnection Customer, less any costs, including penalties incurred by Transmission Provider to cancel any pending orders of or return such materials, equipment, or contracts.

If an Interconnection Customer terminates this QF-LGIA, it shall be responsible for all costs incurred in association with that Interconnection Customer's interconnection, including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment, and other expenses including any Network Upgrades for which Transmission Provider has incurred expenses and has not been reimbursed by Interconnection Customer.

2.4.2 Transmission Provider may, at its option, retain any portion of such materials, equipment, or facilities that Interconnection Customer chooses not to accept delivery of, in which case Transmission Provider shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

2.4.3 With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this QF-LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 Disconnection

Upon termination of this QF-LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this QF-LGIA or such non-terminating Party otherwise is responsible for these costs under this QF-LGIA.

2.6 Survival

This QF-LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this QF-LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this QF-LGIA was in effect; and to permit each Party to have access to the lands of the other Party pursuant to this QF-LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

Article 3. Regulatory Filings

3.1 Filing

Transmission Provider shall file this QF-LGIA (and any amendment hereto) with the OPUC. Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If Interconnection Customer has executed this QF-LGIA, or any amendment thereto, Interconnection Customer shall reasonably cooperate with Transmission Provider with respect to such filing and to provide any information reasonably requested by Transmission Provider needed to comply with applicable regulatory requirements. Because the Point of Interconnection is within the boundary of a FERC-regulated hydroelectric project (the Pelton-Round Butte Project, FERC No. 2030, which is co-owned by Transmission Provider and the Confederated Tribes of Warm Springs), Transmission Provider will be required to file a request at FERC for approval of a non-project use of project land. This filing will include an opportunity for review and comment by resource agencies and stakeholders, including the Transmission Provider's co-licensee, the Confederated Tribes of Warm Springs. Interconnection Customer shall reasonably cooperate with Transmission Provider with respect to this filing by: (1) completing required environmental and cultural resources studies and reports in support of the filing; and (2) providing any information reasonably requested by Transmission Provider in connection with such filing, including, but not limited to, information necessary to address stakeholder and agency comments during the drafting and review process.

3.2 Recordkeeping and Reporting Requirements

(1) The public utility must maintain a record of the following information for at least two years: (a) The number of complete large generator interconnection applications received; (b) The time required to complete the review process for each application; and (c) The reasons for the approval or denial of each application.

(2) For as long as an interconnection customer's large generator facility is interconnected to a public utility's transmission or distribution system, the interconnecting public utility must maintain copies of the interconnection application, interconnection agreement, and certificate of completion for the large generator facility. The public utility must provide a copy of the interconnection customer's records to the interconnection customer within 15 business days after receipt of a written request.

(3) The public utility must submit an annual report to the Commission summarizing the public utility's interconnection activities for the previous calendar year. The annual report must be filed by May 30 and must include the following information: (a) The number of complete large generator interconnection applications received; (b) The number of large generator facility interconnections completed; (c) The types of large generator facilities applying for interconnection and the nameplate capacity of the facilities; (d) The interconnection facilities required to accommodate the interconnection of a large generator facility and the estimated costs of those facilities; and (e) The system upgrades required to accommodate the interconnection of a large generator facility and the estimated costs of those upgrades.

Article 4. Scope of Service

4.1 Network Resource Interconnection Service

Interconnection Customer will be provided Network Resource Interconnection Service under this QF-LGIA.

4.1.1 The Product

Transmission Provider must conduct the necessary studies and construct the Network Upgrades needed to integrate the Large Generating Facility in a manner comparable to that in which Transmission Provider integrates its generating facilities to serve native load customers in the same manner as all other Network Resources.

4.1.2 Transmission Delivery Service Implications

Network Resource Interconnection Service allows Interconnection Customer's Large Generating Facility to be designated by any Network Customer under the OATT on Transmission Provider's Transmission System as a Network Resource, up to the Large Generating Facility's Net Output, on the same basis as existing Network Resources interconnected to Transmission Provider's Transmission System, and to be studied as a Network Resource on the assumption that such a designation will occur. Although Network Resource Interconnection Service does not convey a reservation of transmission service, any Network Customer under the OATT can utilize its network service under the OATT to obtain delivery of energy from the interconnected Interconnection Customer's Large Generating Facility in the same manner as it accesses Network Resources. A Large Generating Facility receiving Network Resource Interconnection Service may also be used to provide Ancillary Services after technical studies and/or periodic analyses are performed with respect to the Large Generating Facility's ability to provide any applicable Ancillary Services, provided that such studies and analyses have been or would be required in connection with the provision of such Ancillary Services by any existing Network Resource. However, if an Interconnection Customer's Large Generating Facility has not been designated as a Network Resource by any load, it cannot be required to provide Ancillary Services except to the extent such requirements extend to all generating facilities that are similarly situated. The

provision of Network Integration Transmission Service or firm Point-to-Point Transmission Service may require additional studies and the construction of additional upgrades. Because such studies and upgrades would be associated with a request for delivery service under the OATT, cost responsibility for the studies and upgrades would be in accordance with FERC's policy for pricing transmission delivery services.

Network Resource Interconnection Service does not necessarily provide Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on Transmission Provider's Transmission System without incurring congestion costs. In the event of transmission constraints on Transmission Provider's Transmission System, Interconnection Customer's Large Generating Facility shall be subject to the applicable congestion management procedures in Transmission Provider's Transmission System in the same manner as Network Resources.

4.2 Provision of Service

Transmission Provider shall provide Network Resource Interconnection Service for the Large Generating Facility at the Point of Interconnection.

4.3 Performance Standards

Each Party shall perform all of its obligations under this QF-LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this QF-LGIA for its compliance therewith. If such Party is a Transmission Provider or Transmission Owner, then that Party shall amend the QF-LGIA and if required by the OPUC, submit the amendment to the OPUC for approval.

4.4 No Transmission Delivery Service

No Agreement to Purchase Output. The execution of this QF-LGIA does not constitute a request for, nor the provision of, any transmission delivery service under Transmission Provider's OATT, and does not convey any right to deliver electricity to any specific customer or Point of Delivery. Additionally, the execution of the QF-LGIA does not constitute an agreement to purchase the Net Output or any portion of the output of the Large Generating Facility.

4.5 Interconnection Customer Provided Services

The services provided by Interconnection Customer under this QF-LGIA are set forth in Article 9.6 and Article 13.4.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

Article 5. Interconnection Facilities Engineering, Procurement, and Construction

5.1 Options

Unless otherwise mutually agreed to between the Parties, Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either Standard Option or Alternate Option set forth below, for completion of Transmission Provider's Interconnection Facilities and Network Upgrades as set forth in Appendix A, Interconnection Facilities and Network Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones.

5.1.1 Standard Option

Transmission Provider shall design, procure, and construct Transmission Provider's Interconnection Facilities and Network Upgrades, using Reasonable Efforts to complete Transmission Provider's Interconnection Facilities and Network Upgrades by the dates set forth in Appendix B, Milestones. Transmission Provider shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event Transmission Provider reasonably expects that it will not be able to complete Transmission Provider's Interconnection Facilities and Network Upgrades by the specified dates, Transmission Provider shall promptly provide written notice to Interconnection Customer and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

5.1.2 Alternate Option

If the dates designated by Interconnection Customer are acceptable to Transmission Provider, Transmission Provider shall so notify Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities by the designated dates.

If Transmission Provider subsequently fails to complete Transmission Provider's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; Transmission Provider shall pay Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by Interconnection Customer shall be extended day for day for each day that the applicable RTO or ISO refuses to grant clearances to install equipment.

5.1.3 Option to Build

If the dates designated by Interconnection Customer are not acceptable to Transmission Provider, Transmission Provider shall so notify Interconnection Customer within thirty (30) Calendar Days, and unless the Parties agree otherwise, Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades on the dates specified in Article 5.1.2. Transmission Provider and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A. Except for Stand Alone Network Upgrades, Interconnection Customer shall have no right to construct Network Upgrades under this option.

5.1.4 Negotiated Option

If Interconnection Customer elects not to exercise its option under Article 5.1.3, Option to Build, Interconnection Customer shall so notify Transmission Provider within thirty (30) Calendar Days, and the Parties shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades by Interconnection Customer) pursuant to which Transmission Provider is responsible for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Network Upgrades. If the Parties are unable to reach agreement on such terms and conditions, Transmission Provider shall assume responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Network Upgrades pursuant to 5.1.1, Standard Option.

5.2 General Conditions Applicable to Option to Build

If Interconnection Customer assumes responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades:

(1) Interconnection Customer shall engineer, procure equipment, and construct Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by Transmission Provider;

(2) Interconnection Customer's engineering, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law and Applicable Reliability Standards to which Transmission Provider would be subject in the engineering, procurement or construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;

(3) Transmission Provider shall review and approve the engineering design, equipment acceptance tests, and the construction of Transmission Provider's Interconnection Facilities Stand Alone Network Upgrades;

(4) prior to commencement of construction, Interconnection Customer shall provide to Transmission Provider a schedule for construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from Transmission Provider;

(5) at any time during construction, Transmission Provider shall have the right to gain unrestricted access to Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;

(6) at any time during construction, should any phase of the engineering, equipment procurement, or construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by Transmission Provider, upon a rigorous showing of cause, Interconnection Customer shall be obligated to remedy deficiencies in that portion of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades;

(7) Interconnection Customer shall indemnify Transmission Provider for claims arising from Interconnection Customer's construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;

(8) Interconnection Customer shall transfer control of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades to Transmission Provider;

(9) Unless Parties otherwise agree, Interconnection Customer shall transfer ownership of Transmission Provider's Interconnection Facilities and Stand-Alone Network Upgrades to Transmission Provider;

(10) Transmission Provider shall approve and accept for operation and maintenance Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

(11) Interconnection Customer shall deliver to Transmission Provider "as-built" drawings, information, and any other documents that are reasonably required by Transmission Provider to assure that the Interconnection Facilities and Stand Alone Network Upgrades are built to the standards and specifications required by Transmission Provider.

5.3 Liquidated Damages.

The actual damages to Interconnection Customer, in the event Transmission Provider's Interconnection Facilities or Network Upgrades are not completed by the dates designated by Interconnection Customer and accepted by Transmission Provider pursuant to Article 5.1.2 or 5.1.4, above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by Transmission Provider to Interconnection Customer in the event that Transmission Provider does not complete any portion of Transmission Provider's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to 1/2 of 1 percent per day of the actual cost of Transmission Provider's Interconnection Facilities and Network Upgrades, in the aggregate, for which Transmission Provider has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of Transmission Provider's Interconnection Facilities and Network Upgrades for which Transmission Provider has assumed responsibility to design, procure, and construct. The foregoing payments will be made by Transmission Provider to Interconnection Customer as just compensation for the damages caused to Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this QF-LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Transmission Provider's failure to meet its schedule.

No liquidated damages shall be paid to Interconnection Customer if: (1) Interconnection Customer is not ready to commence use of Transmission Provider's Interconnection Facilities or Network Upgrades to take the delivery of power for the Large Generating Facility's Trial Operation or to export power from the Large Generating Facility on the specified dates, unless Interconnection Customer would have been able to commence use of Transmission Provider's Interconnection Facilities or Network Upgrades to take the delivery of power for Large Generating Facility's Trial Operation or to export power from the Large Generating Facility, but for Transmission Provider's delay; (2) Transmission Provider's failure to meet the specified dates is the result of the action or inaction of Interconnection Customer or any other Interconnection Customer who has entered into an QF-LGIA or LGIA with Transmission Provider or any cause beyond Transmission Provider's reasonable control or reasonable ability to cure, including, but not limited to, failure to obtain any required regulatory approval necessary to fulfill Transmission Provider's responsibilities necessary for the Large Generating Facility to commence operation; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

5.4 Power System Stabilizers

The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with the guidelines and procedures established by the Applicable Reliability Council. Transmission Provider reserves the right to reasonably establish

minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, Interconnection Customer shall immediately notify Transmission Provider's system operator, or its designated representative. The requirements of this paragraph shall not apply to wind generators.

5.5 Equipment Procurement

If responsibility for construction of Transmission Provider's Interconnection Facilities or Network Upgrades is to be borne by Transmission Provider, then Transmission Provider shall commence design of Transmission Provider's Interconnection Facilities or Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

5.5.1 Transmission Provider has completed the Facilities Study pursuant to the Facilities Study Agreement;

5.5.2 Transmission Provider has received written authorization to proceed with design and procurement from Interconnection Customer by the date specified in Appendix B, Milestones; and

5.5.3 Interconnection Customer has provided security to Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

5.6 Construction Commencement

Transmission Provider shall commence construction of Transmission Provider's Interconnection Facilities and Network Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:

5.6.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

5.6.2 Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of Transmission Provider's Interconnection Facilities and Network Upgrades;

5.6.3 Transmission Provider has received written authorization to proceed with construction from Interconnection Customer by the date specified in Appendix B, Milestones; and

5.6.4 Interconnection Customer has provided security to Transmission Provider in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

5.7 Work Progress

The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Either Party may, at any time, request a progress report from the other Party. If, at any time, Interconnection Customer determines that the completion of Transmission Provider's Interconnection Facilities will not be required until after the specified In-Service Date, Interconnection Customer will provide written notice to Transmission Provider of such later date upon which the completion of Transmission Provider's Interconnection Facilities will be required.

5.8 Information Exchange

As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Parties' Interconnection Facilities and compatibility of the Interconnection Facilities with Transmission Provider's Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.9 Limited Operation

If any of Transmission Provider's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Large Generating Facility, Transmission Provider shall, upon the request and at the expense of Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Large Generating Facility and Interconnection Customer's Interconnection Facilities may operate prior to the completion of Transmission Provider's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this QF-LGIA. Transmission Provider shall permit Interconnection Customer to operate the Large Generating Facility and Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.

5.10 Interconnection Customer's Interconnection Facilities ("ICIF")

Interconnection Customer shall, at its expense, design, procure, construct, own and install the ICIF, as set forth in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

5.10.1 Interconnection Customer's Interconnection Facility Specifications

Interconnection Customer shall submit initial specifications for the ICIF, including System Protection Facilities, to Transmission Provider at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. Transmission Provider shall review such specifications to ensure that the ICIF are compatible with the technical specifications, operational control, and safety requirements of Transmission

Provider and comment on such specifications within thirty (30) Calendar Days of Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

5.10.2 Transmission Provider's Review

Transmission Provider's review of Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the ICIF. Interconnection Customer shall make such changes to the ICIF as may reasonably be required by Transmission Provider, in accordance with Good Utility Practice, to ensure that the ICIF are compatible with the technical specifications, operational control, and safety requirements of Transmission Provider.

5.10.3 ICIF Construction

The ICIF shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, Interconnection Customer shall deliver to Transmission Provider "as-built" drawings, information and documents for the ICIF, such as: a one-line diagram, a site plan showing the Large Generating Facility and the ICIF, plan and elevation drawings showing the layout of the ICIF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the ICIF, and the impedances (determined by factory tests) for the associated step-up transformers and the Large Generating Facility. The Interconnection Customer shall provide Transmission Provider specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable.

5.11 Transmission Provider's Interconnection Facilities Construction

Transmission Provider's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, Transmission Provider shall deliver to Interconnection Customer the "as-built" drawings, information and documents for Transmission Provider's Interconnection Facilities if requested by the Interconnection Customer.

Transmission Provider will obtain control of Transmission Provider's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities.

5.12 Access Rights

Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this QF-LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

5.13 Lands of Other Property Owners

If any part of Transmission Provider or Transmission Owner's Interconnection Facilities and/or Network Upgrades is to be installed on property owned by persons other than Interconnection Customer or Transmission Provider or Transmission Owner, Transmission Provider or Transmission Owner shall at Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove Transmission Provider or Transmission Owner's Interconnection Facilities and/or Network Upgrades upon such property.

5.14 Permits

Transmission Provider or Transmission Owner and Interconnection Customer each shall be responsible for obtaining all permits, licenses and authorizations that are necessary to construct the Interconnection Facilities, Distribution Facilities, Stand Alone Network Upgrades, or Network Upgrades for which it has construction responsibility under this QF-LGIA in compliance with Applicable Laws and Regulations.

Transmission Provider or Transmission Owner and Interconnection Customer shall cooperate with each other in good faith in obtaining any such permits, licenses and authorizations.

5.15 Early Construction of Base Case Facilities

Interconnection Customer may request Transmission Provider to construct, and Transmission Provider shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades

required for Interconnection Customer to be interconnected to the Transmission System which are included in the Base Case of the Facilities Study for Interconnection Customer, and which also are required to be constructed for another Interconnection Customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.

5.16 Suspension

Interconnection Customer reserves the right, upon written notice to Transmission Provider, to suspend at any time all work by Transmission Provider associated with the construction and installation of Transmission Provider's Interconnection Facilities and/or Network Upgrades required under this QF-LGIA with the condition that Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and Transmission Provider's safety and reliability criteria. In such event, Interconnection Customer shall be responsible for all reasonable and necessary costs which Transmission Provider (i) has incurred pursuant to this QF-LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Transmission Provider cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Transmission Provider shall obtain Interconnection Customer's authorization to do so.

Transmission Provider shall invoice Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work by Transmission Provider required under this QF-LGIA pursuant to this Article 5.16, and has not requested Transmission Provider to recommence the work required under this QF-LGIA on or before the expiration of three (3) years following commencement of such suspension, this QF-LGIA shall be deemed terminated. The three-year period shall begin on the date the suspension is requested, or the date of the written notice to Transmission Provider, if no effective date is specified.

5.17 Taxes

5.17.1 Interconnection Customer Payments Not Taxable

The Parties intend that all payments or property transfers made by Interconnection Customer to Transmission Provider for the installation of Transmission Provider's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

5.17.2 Representations and Covenants

In accordance with IRS Notice 2016-36, Interconnection Customer represents and covenants that (i) in the case of electricity generated at the Large Generating Facility and wheeled over any Transmission Owner's Transmission System, ownership of the wheeled electricity generated at the Large Generating Facility will remain with the generator prior to its transmission onto the grid (This ownership requirement is deemed to be satisfied if title to electricity wheeled passes to the purchaser at the busbar on the generator's end of the intertie, as intertie is defined in IRS Notice 2016-36), (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to Transmission Provider for Transmission Provider's Interconnection Facilities will be capitalized by Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of Transmission Provider's Interconnection Facilities that is a "dual-use intertie," within the meaning of IRS Notice 2016-36, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 2016-36. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At Transmission Provider's request, Interconnection Customer shall provide Transmission Provider with a report from an independent engineer confirming its representation in clause (iii), above. Transmission Provider represents and covenants that the cost of Transmission Provider's Interconnection Facilities paid for by Interconnection Customer will have no net effect on the base upon which rates are determined.

5.17.3 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Transmission Provider

Notwithstanding Article 5.17.1, Interconnection Customer shall protect, indemnify and hold harmless Transmission Provider from the cost consequences of any current tax liability imposed against Transmission Provider as the result of payments or property transfers made by Interconnection Customer to Transmission Provider under this QF-LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Transmission Provider.

Transmission Provider shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Interconnection Customer under this QF-LGIA unless (i) Transmission Provider has determined, in good faith, that the payments or property transfers made by Interconnection Customer to Transmission Provider should be reported as income subject to taxation or (ii) any Governmental Authority directs Transmission Provider to report payments or property as income subject to taxation; provided, however, that Transmission

Provider may require Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to Transmission Provider (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. Interconnection Customer shall reimburse Transmission Provider for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from Transmission Provider of the amount due, including detail about how the amount was calculated.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the 10 year testing period and the applicable statute of limitation, as it may be extended by Transmission Provider upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

5.17.4 Tax Gross-Up Amount

Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Interconnection Customer will pay Transmission Provider, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on Transmission Provider ("Current Taxes") on the excess of (a) the gross income realized by Transmission Provider as a result of payments or property transfers made by Interconnection Customer to Transmission Provider under this QF-LGIA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit Transmission Provider to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Transmission Provider's composite federal and state tax rates at the time the payments or property transfers are received and Transmission Provider will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Transmission Provider's anticipated tax depreciation deductions as a result of such payments or property transfers by Transmission Provider's current weighted average cost of capital. Thus, the formula for calculating Interconnection Customer's liability to Transmission Owner pursuant to this Article 5.17.4 can be expressed as follows: (Current Tax Rate x (Gross Income Amount — Present Value of Tax Depreciation))/(1-Current Tax Rate). Interconnection Customer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

5.17.5 Private Letter Ruling or Change or Clarification of Law

At Interconnection Customer's request and expense, Transmission Provider shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Interconnection Customer to Transmission Provider under this QF-LGIA are subject to federal income taxation. Interconnection Customer will prepare the initial draft of the request for a private letter ruling and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Interconnection Customer's knowledge.

Transmission Provider and Interconnection Customer shall cooperate in good faith with respect to the submission of such request.

Transmission Provider shall keep Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. Transmission Provider shall allow Interconnection Customer to attend all meetings with IRS officials about the request and shall permit Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.

5.17.6 Subsequent Taxable Events

If, within 10 years from the date on which the relevant Transmission Provider's Interconnection Facilities are placed in service, (i) Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 2016-36, or (iii) this QF-LGIA terminates and Transmission Provider retains ownership of the Interconnection Facilities and Network Upgrades, Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on Transmission Provider, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 2016-36.

5.17.7 Contests

In the event any Governmental Authority determines that Transmission Provider's receipt of payments or property constitutes income that is subject to taxation, Transmission Provider shall notify Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by Interconnection Customer and at Interconnection Customer's sole expense, Transmission Provider may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon Interconnection Customer's written request and sole expense, Transmission Provider may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. Transmission

Provider reserves the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but Transmission Provider shall keep Interconnection Customer informed, shall consider in good faith suggestions from Interconnection Customer about the conduct of the contest, and shall reasonably permit Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

Interconnection Customer shall pay to Transmission Provider on a periodic basis, as invoiced by Transmission Provider, Transmission Provider's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest. At any time during the contest, Transmission Provider may agree to a settlement either with Interconnection Customer's consent or after obtaining written advice from nationally-recognized tax counsel, selected by Transmission Provider, but reasonably acceptable to Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding sentence. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. Any settlement without Interconnection Customer's consent or such written advice will relieve Interconnection Customer from any obligation to indemnify Transmission Provider for the tax at issue in the contest.

5.17.8 Refund

In the event that (a) a private letter ruling is issued to Transmission Provider which holds that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Provider under the terms of this QF-LGIA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Transmission Provider in good faith that any amount paid or the value of any property transferred by Interconnection Customer to Transmission Provider under the terms of this QF-LGIA is not taxable to Transmission Provider, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Interconnection Customer to Transmission Provider are not subject to federal income tax, or (d) if Transmission Provider receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Interconnection Customer to Transmission Provider pursuant to this QF-LGIA, Transmission Provider shall promptly refund to Interconnection Customer the following:

(i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) interest on any amounts paid by Interconnection Customer to Transmission Provider for such taxes which Transmission Provider did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 CFR §35.19a(a)(2)(iii) from the date payment was made by Interconnection Customer to the date Transmission Provider refunds such payment to Interconnection Customer, and

(iii) with respect to any such taxes paid by Transmission Provider, any refund or credit Transmission Provider receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Transmission Provider for such overpayment of taxes (including any reduction in interest otherwise payable by Transmission Provider to any Governmental Authority resulting from an offset or credit); provided, however, that Transmission Provider will remit such amount promptly to Interconnection Customer only after and to the extent that Transmission Provider has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to Transmission Provider's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

5.17.9 Taxes Other Than Income Taxes

Upon the timely request by Interconnection Customer, and at Interconnection Customer's sole expense, Transmission Provider may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Transmission Provider for which Interconnection Customer may be required to reimburse Transmission Provider under the terms of this QF-LGIA. Interconnection Customer shall pay to Transmission Provider on a periodic basis, as invoiced by Transmission Provider, Transmission Provider's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest.

Interconnection Customer and Transmission Provider shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Interconnection Customer to Transmission Provider for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Transmission Provider.

5.17.10 Transmission Owners Who Are Not Transmission Providers

If Transmission Provider is not the same entity as the Transmission Owner, then (i) all references in this Article 5.17 to Transmission Provider shall be deemed also to refer to and to include the Transmission Owner, as appropriate, and (ii) this QF-LGIA shall not become effective until such Transmission Owner shall have agreed in writing to assume all of the duties and obligations of Transmission Provider under this Article 5.17 of this QF-LGIA.

5.18 Tax Status

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this QF-LGIA is intended to adversely affect any Transmission Provider's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

5.19 Modification

5.19.1 General

Either Party may undertake modifications to its facilities. If a Party plans to undertake a modification that reasonably may be expected to affect the other Party's facilities, that Party shall provide to the other Party sufficient information regarding such modification so that the other Party may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Interconnection Customer to submit an Interconnection Request, Transmission Provider shall provide, within thirty (30) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the Transmission System, Transmission Provider's Interconnection Facilities or Network Upgrades necessitated by such Interconnection Customer modification and a good faith estimate of the costs thereof.

5.19.2 Standards

Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this QF-LGIA, Applicable Reliability Standards and Good Utility Practice.

5.19.3 Modification Costs

Interconnection Customer shall not be directly assigned for the costs of any additions, modifications, or replacements that Transmission Provider makes to Transmission Provider's Interconnection Facilities or the Transmission System to facilitate the interconnection of a third party to Transmission Provider's Interconnection Facilities or the Transmission System, or to provide transmission service to a third party under Transmission Provider's OATT. Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to Interconnection Customer's Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Customer's Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

Article 6. Testing and Inspection

6.1 Pre-Commercial Operation Date Testing and Modifications

Prior to the Commercial Operation Date, Transmission Provider shall test Transmission Provider's Interconnection Facilities and Network Upgrades and Interconnection Customer shall test the Large Generating Facility and Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. Interconnection Customer shall bear the cost of all such testing and modifications. Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.

6.2 Post-Commercial Operation Date Testing and Modifications

Each Party shall perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice. Interconnection Customer shall bear the cost of all testing and modifications required under this Article 6.2.

6.3 Right to Observe Testing

Each Party shall notify the other Party in advance of its performance of tests of its Interconnection Facilities. The other Party has the right, at its own expense, to observe such testing.

6.4 Right to Inspect

Each Party shall have the right, but shall have no obligation to: (i) observe the other Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or the Power System Stabilizers or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this QF-LGIA.

Article 7. Metering

7.1 General

Each Party shall comply with the Applicable Reliability Council requirements regarding metering. Unless otherwise agreed by the Parties, Transmission Provider shall install Metering Equipment at the Point of Interconnection prior to any operation of the Large Generating Facility and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large Generating Facility shall be measured at or, at Transmission Provider's option, compensated to, the Point of Interconnection. Transmission Provider shall provide metering quantities, in analog and/or digital form, to Interconnection Customer upon request. Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 Station Power Metering

To the extent the Large Generating Facility relies, or may need to rely, on Station Power not generated by the Large Generating Facility itself, the Parties shall agree to and provide for the installation of Metering Equipment at such locations as necessary to meter the quantities of Station Power delivered to and used by the Large Generating Facility. The intent of such Metering Equipment is to allow the Parties to accurately meter Station Power so that the Net Output of the Large Generating Facility can be accurately ascertained on an hourly basis. Unless otherwise agreed by the Parties, the Transmission Provider shall install the Metering Equipment required by this Article 7.2 at such location or locations as necessary to meter Station Power for the purposes of this Article 7.2 and Transmission Provider shall own, operate, test and maintain such Station Power Metering Equipment. Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment required by this Article 7.2.

7.3 Check Meters

Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check Transmission Provider's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this QF-LGIA, except as provided in Article 7.5 below. The check meters shall be subject at all reasonable times to inspection and examination by Transmission Provider or its designee. The installation, operation and maintenance thereof shall be performed entirely by Interconnection Customer in accordance with Good Utility Practice.

7.4 Standards

Transmission Provider shall install, calibrate, and test revenue quality Metering Equipment in accordance with applicable American National Standards Institute ("ANSI") standards.

7.5 Testing of Metering Equipment

Transmission Provider shall, at Interconnection Customer's expense, inspect and test all Transmission Provider-owned Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by Interconnection Customer, Transmission Provider shall, at Interconnection Customer's expense, inspect or test Metering Equipment more frequently than every two (2) years. Transmission Provider shall give reasonable notice of the time when any inspection or test shall take place, and Interconnection Customer may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Interconnection Customer's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to Transmission Provider's failure to maintain, then Transmission Provider shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, Transmission Provider shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Interconnection Customer's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment.

7.6 Metering Data

At Interconnection Customer's expense, the metered data shall be telemetered to one or more locations designated by Transmission Provider and one or more locations designated by Interconnection Customer. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Large Generating Facility to the Point of Interconnection.

Article 8. Communications

8.1 Interconnection Customer Obligations

Interconnection Customer shall maintain satisfactory operating communications with Transmission Provider's Transmission System dispatcher or representative designated by Transmission Provider. Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to Transmission Provider as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by Transmission Provider. Any required maintenance of such communications equipment shall be performed by Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data. Interconnection Customer shall bear all costs associated with obtaining and maintaining the communication services and equipment required by this Article 8 including the cost of any ground potential rise or other communication-related study or testing required by a telecommunications provider or required by Good Utility Practice.

8.2 Remote Terminal Unit

Prior to the Initial Synchronization Date of the Large Generating Facility, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Interconnection Customer, or by Transmission Provider at Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Transmission Provider through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by Transmission Provider. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by Transmission Provider.

Each Party will promptly advise the other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party owning such equipment shall, at Interconnection Customer's expense, correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation

Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

Article 9. Operations

9.1 General

Each Party shall comply with the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

9.2 Transmission Provider Obligations

Transmission Provider shall cause the Transmission System and Transmission Provider's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this QF-LGIA. Transmission Provider may provide operating instructions to Interconnection Customer consistent with this QF-LGIA and Transmission Provider's operating protocols and procedures as they may change from time to time. Transmission Provider will consider changes to its operating protocols and procedures proposed by Interconnection Customer.

9.3 Interconnection Customer Obligations

Interconnection Customer shall at its own expense operate, maintain and control the Large Generating Facility and Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this QF-LGIA. Interconnection Customer shall operate the Large Generating Facility and Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of Transmission Provider's Control Area, as such requirements are set forth in Appendix C, Interconnection Details, of this QF-LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. Either Party may request that the other Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this QF-LGIA.

9.4 Start-Up and Synchronization

Consistent with the Parties' mutually acceptable procedures, Interconnection Customer is responsible for the proper synchronization of the Large Generating Facility to Transmission Provider's Transmission System.

9.5 Reactive Power

9.5.1 Power Factor Design Criteria

Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless Transmission Provider has established different requirements that apply to all generators in the Control Area on a comparable basis. The requirements of this paragraph shall not apply to wind generators.

9.5.2 Voltage Schedules

Once Interconnection Customer has synchronized the Large Generating Facility with the Transmission System, Transmission Provider shall require Interconnection Customer to operate the Large Generating Facility to produce or absorb reactive power within the design limitations of the Large Generating Facility set forth in Article 9.6.1 (Power Factor Design Criteria). Transmission Provider's voltage schedules shall treat all sources of reactive power in the Control Area in an equitable and not unduly discriminatory manner. Transmission Provider shall exercise Reasonable Efforts to provide Interconnection Customer with such schedules at least one (1) day in advance and may make changes to such schedules as necessary to maintain the reliability of the Transmission System. Interconnection Customer shall operate the Large Generating Facility to maintain the specified output voltage or power factor at the Point of Interconnection within the design limitations of the Large Generating Facility set forth in Article 9.6.1 (Power Factor Design Criteria). If Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify Transmission Provider.

9.5.2.1 Governors and Regulators

Whenever the Large Generating Facility is operated in parallel with the Transmission System and the speed governors (if installed on the generating unit pursuant to Good Utility Practice) and voltage regulators are capable of operation, Interconnection Customer shall operate the Large Generating Facility with its speed governors and voltage regulators in automatic operation. If the Large Generating Facility's speed governors and voltage regulators are not capable of such automatic operation, Interconnection Customer shall immediately notify Transmission Provider's system operator, or its designated representative, and ensure that such Large Generating Facility's reactive power production or absorption (measured in MVARs) are within the design capability of the Large Generating Facility's generating unit(s) and steady state stability limits. Interconnection Customer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the Transmission System or trip any generating unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Control Area on a comparable basis.

9.5.3 Payment for Reactive Power

Transmission Provider is required to pay Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from the Large Generating Facility when Transmission Provider requests Interconnection Customer to operate its Large Generating Facility outside the range specified in

Article 9.6.1, provided that if Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the Parties have otherwise agreed.

9.6 Outages and Interruptions

9.6.1 Outages

9.6.1.1 Outage Authority and Coordination

Each Party may in accordance with Good Utility Practice in coordination with the other Party remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to the Parties. In all circumstances, any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Party of such removal.

9.6.1.2 Outage Schedules

Transmission Provider shall post scheduled outages of its transmission facilities on its Open Access Same-Time Information System ("OASIS"). Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to Transmission Provider for a minimum of a rolling twenty-four (24) month period. Interconnection Customer shall update its planned maintenance schedule as necessary. Transmission Provider may request Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the Transmission System; provided, however, adequacy of generation supply shall not be a criterion in determining Transmission System reliability. Transmission Provider shall compensate Interconnection Customer for any additional direct costs that Interconnection Customer incurs as a result of having to reschedule maintenance, including any additional overtime, breaking of maintenance contracts or other costs above and beyond the cost Interconnection Customer would have incurred absent Transmission Provider's request to reschedule maintenance. Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, Interconnection Customer had modified its schedule of maintenance activities.

9.6.1.3 Outage Restoration

If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects the other Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Party, to the extent such information is known, information on the nature of the Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage.

9.6.2 Interruption of Service

If required by Good Utility Practice to do so, Transmission Provider may require Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect Transmission Provider's ability to perform such activities as are necessary to safely and reliably operate and maintain the Transmission System. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

9.6.2.1 The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

9.6.2.2 Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all Generating Facilities directly connected to the Transmission System;

9.6.2.3 When the interruption or reduction must be made under circumstances which do not allow for advance notice, Transmission Provider shall notify Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification as soon as practicable;

9.6.2.4 Except during the existence of an Emergency Condition, when the interruption or reduction can be scheduled without advance notice, Transmission Provider shall notify Interconnection Customer in advance regarding the timing of such scheduling and further notify Interconnection Customer of the expected duration. Transmission Provider shall coordinate with Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to Interconnection Customer and Transmission Provider;

9.6.2.5 The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, and the Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

9.6.3 Under-Frequency and Over Frequency Conditions

The Transmission System is designed to automatically activate a load-shed program as required by the Applicable Reliability Council in the event of an under-frequency system disturbance. Interconnection Customer shall implement under-frequency and over-frequency relay set points for the Large Generating Facility as required by the Applicable Reliability Council to ensure "ride through" capability of the Transmission System. The Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with Transmission Provider in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Large Generating Facility to stay connected to and synchronized with the Transmission System during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice.

9.6.4 System Protection and Other Control Requirements

9.6.4.1 System Protection Facilities

Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Transmission Provider shall install at Interconnection Customer's expense any System Protection Facilities that may be required on Transmission Provider's Interconnection Facilities or the Transmission System as a result of the interconnection of the Large Generating Facility and Interconnection Customer's Interconnection Facilities.

9.6.4.2 Each Party's protection facilities shall be designed and coordinated with other systems in accordance with Good Utility Practice.

9.6.4.3 Each Party shall be responsible for protection of its facilities consistent with Good Utility Practice.

9.6.4.4 Each Party's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of Interconnection Customer's units.

9.6.4.5 Each Party will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice.

9.6.4.6 Prior to the In-Service Date, and again prior to the Commercial Operation Date, each Party or its agent shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

9.6.5 Requirements for Protection

In compliance with Good Utility Practice, Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Transmission System not otherwise isolated by Transmission Provider's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Transmission System. Such protective equipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the Large Generating Facility and the Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. Interconnection Customer shall be responsible for protection of the Large Generating Facility and Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and Interconnection Customer's other equipment if conditions on the Transmission System could adversely affect the Large Generating Facility.

9.6.6 Power Quality

Neither Party's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI Standard C84.1-1989, or the applicable superseding electric industry standard, shall control.

9.7 Switching and Tagging Rule

Each Party shall provide the other Party a copy of its switching and tagging rules that are applicable to the other Party's activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

9.8 Use of Interconnection Facilities by Third Parties

9.8.1 Purpose of Interconnection Facilities

Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Transmission System and shall be used for no other purpose.

9.8.2 Third Party Users

If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use Transmission Provider's Interconnection Facilities, or any part thereof, Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between Interconnection Customer and any third-party users based upon the pro rata use of the Interconnection Facilities by Transmission Provider, all third-party users, and Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to the OPUC for resolution.

9.9 Disturbance Analysis Data Exchange

The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or Transmission Provider's Transmission System by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

Article 10. Maintenance

10.1 Transmission Provider Obligations

Transmission Provider shall maintain the Transmission System and Transmission Provider's Interconnection Facilities in a safe and reliable manner and in accordance with this QF-LGIA.

10.2 Interconnection Customer Obligations

Interconnection Customer shall maintain the Large Generating Facility and Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this QF-LGIA.

10.3 Coordination

The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.

10.4 Secondary Systems

Each Party shall cooperate with the other in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Party. Each Party shall provide advance notice to the other Party before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

10.5 Operating and Maintenance Expenses

Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, Interconnection Customer shall be responsible for all reasonable actual expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of Transmission Provider's Interconnection Facilities.

Article 11. Performance Obligation

11.1 Interconnection Customer Interconnection Facilities

Interconnection Customer shall design, procure, construct, install, own and/or control Interconnection Customer Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at its sole expense.

11.2 Transmission Provider's Interconnection Facilities

In accordance with Good Utility Practice, Transmission Provider or Transmission Owner shall design, procure, construct, install, own and/or control the Transmission Provider's Interconnection Facilities described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades, at the sole expense of the Interconnection Customer.

11.3 Network Upgrades and Distribution Upgrades

Transmission Provider or Transmission Owner shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Unless Transmission Provider or Transmission Owner elects to fund the capital for the Network Upgrades, they shall be solely funded by Interconnection Customer.

11.4 Special Provisions for Affected Systems

The Interconnection Customer shall be responsible for all costs related to Network Upgrades required on Affected Systems.

11.5 Provision of Security

At least thirty (30) Calendar Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of a Transmission Provider's Interconnection Facilities, Network Upgrades, or Distribution Upgrades, Interconnection Customer shall provide Transmission Provider, at Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Transmission Provider and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring and installing the applicable portion of Transmission Provider's Interconnection Facilities, Network Upgrades, or Distribution Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to Transmission Provider for these purposes.

In addition:

11.5.1 The guarantee must be made by an entity that meets the creditworthiness requirements of Transmission Provider and contain terms and conditions that guarantee payment of any amount that may be due from Interconnection Customer, up to an agreed-to maximum amount.

11.5.2 The letter of credit must be issued by a financial institution reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.

11.5.3 The surety bond must be issued by an insurer reasonably acceptable to Transmission Provider and must specify a reasonable expiration date.

11.6 Interconnection Customer Compensation

If Transmission Provider requests or directs Interconnection Customer to provide a service pursuant to Articles 9.5.3 (Payment for Reactive Power), or 13.4.1 of this QF-LGIA, Transmission Provider shall compensate Interconnection Customer in accordance with Interconnection Customer's applicable rate schedule then in effect unless the provision of such service(s) is subject to an RTO or ISO FERC-approved rate schedule. Interconnection Customer shall serve Transmission Provider or RTO or ISO with any filing of a proposed rate schedule at the time of such filing with FERC. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb any Reactive Power under this QF-LGIA, Transmission Provider agrees to compensate Interconnection Customer in such amount as would have been due Interconnection Customer had the rate schedule been in effect at the time service commenced; provided, however, that such rate schedule must be filed at FERC or other appropriate Governmental Authority within sixty (60) Calendar Days of the commencement of service.

11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition

Transmission Provider or RTO or ISO shall compensate Interconnection Customer for its provision of real and reactive power and other Emergency Condition services that Interconnection Customer provides to support the Transmission System during an Emergency Condition in accordance with Article 11.6.

Article 12. Invoice

12.1 General

Each Party shall submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this QF-

LGIA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.

12.2 Final Invoice

Within six months after completion of the construction of Transmission Provider's Interconnection Facilities and the Network Upgrades, Transmission Provider shall provide an invoice of the final cost of the construction of Transmission Provider's Interconnection Facilities and the Network Upgrades and shall set forth such costs in sufficient detail to enable Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Transmission Provider shall refund to Interconnection Customer any amount by which the actual payment by Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.

12.3 Payment

Invoices shall be rendered to the paying Party at the address specified in Appendix F. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices by either Party will not constitute a waiver of any rights or claims either Party may have under this QF-LGIA.

12.4 Disputes

In the event of a billing dispute between Transmission Provider and Interconnection Customer, Transmission Provider shall continue to provide Interconnection Service under this QF-LGIA as long as Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to Transmission Provider or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Interconnection Customer fails to meet these two requirements for continuation of service, then Transmission Provider may provide notice to Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accord with the methodology set forth in FERC's regulations at 18 CFR § 35.19a(a)(2)(iii).

Article 13. Emergencies

13.1 Obligations

Each Party shall comply with the Emergency Condition procedures of the applicable ISO/RTO, NERC, the Applicable Reliability Council, Applicable Laws and Regulations, and any emergency procedures agreed to by the Parties.

13.2 Notice

Transmission Provider shall notify Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects Transmission Provider's Interconnection Facilities or the Transmission System that may reasonably be expected to affect Interconnection Customer's operation of the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Interconnection Customer shall notify Transmission Provider promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the Transmission System or Transmission Provider's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of Interconnection Customer's or Transmission Provider's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

13.3 Immediate Action

Unless, in Interconnection Customer's reasonable judgment, immediate action is required, Interconnection Customer shall obtain the consent of Transmission Provider, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or Interconnection Customer's Interconnection Facilities in response to an Emergency Condition either declared by Transmission Provider or otherwise regarding the Transmission System.

13.4 Transmission Provider Authority

13.4.1 General

Transmission Provider may take whatever actions or inactions with regard to the Transmission System or Transmission Provider's Interconnection Facilities it deems necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Transmission System or Transmission Provider's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.

Transmission Provider shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or Interconnection Customer's Interconnection Facilities. Transmission Provider may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing Interconnection Customer to shut-down, start-up, increase or decrease the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.4.2; directing Interconnection Customer to assist with black start (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and Interconnection Customer's

Interconnection Facilities. Interconnection Customer shall comply with all of Transmission Provider's operating instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

13.4.2 Reduction and Disconnection

Transmission Provider may reduce Interconnection Service or disconnect the Large Generating Facility or Interconnection Customer's Interconnection Facilities, when such, reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of Transmission Provider pursuant to Transmission Provider's OATT. When Transmission Provider can schedule the reduction or disconnection in advance, Transmission Provider shall notify Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. Transmission Provider shall coordinate with Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to Interconnection Customer and Transmission Provider. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Interconnection Facilities, and the Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

13.5 Interconnection Customer Authority

Consistent with Good Utility Practice and the QF-LGIA and the QF-LGIP, Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Transmission System and Transmission Provider's Interconnection Facilities. Transmission Provider shall use Reasonable Efforts to assist Interconnection Customer in such actions.

13.6 Limited Liability

Except as otherwise provided in Article 11.6.1 of this LGIA, neither Party shall be liable to the other for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

Article 14. Regulatory Requirements and Governing Law

14.1 Regulatory Requirements

Each Party's obligations under this QF-LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. These regulatory requirements include, but are not limited to, certification of the Interconnection Customer's Generating Facility as a QF and approval for the non-project use of project land under Transmission Provider's FERC hydroelectric license for the Pelton-Round Butte Project, FERC No. 2030. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this QF-LGIA shall require Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act, the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978.

14.2 Governing Law

14.2.1 The validity, interpretation and performance of this QF-LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.

14.2.2 This QF-LGIA is subject to all Applicable Laws and Regulations.

14.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

Article 15. Notices

15.1 General

Unless otherwise provided in this QF-LGIA, any notice, demand or request required or permitted to be given by either Party to the other and any instrument required or permitted to be tendered or delivered by either Party in writing to the other shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings.

Either Party may change the notice information in this QF-LGIA by giving five (5) Business Days written notice prior to the effective date of the change.

15.2 Billings and Payments

Billings and payments shall be sent to the addresses set out in Appendix F.

15.3 Alternative Forms of Notice

Any notice or request required or permitted to be given by a Party to the other and not required by this QF-LGIA to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F.

15.4 Operations and Maintenance Notice.

Each Party shall notify the other Party in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

Article 16. Force Majeure

16.1 Force Majeure

16.1.1 Economic hardship is not considered a Force Majeure event.

16.1.2 Neither Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

Article 17. Default

17.1 Default

17.1.1 General

No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this QF-LGIA or the result of an act of omission of the other Party. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the Breaching Party. Except as provided in Article 17.1.2, the Breaching Party shall have thirty (30)

Calendar Days from receipt of the Breach notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

17.1.2 Right to Terminate

If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, the non-breaching Party shall have the right to declare a Default and terminate this QF-LGIA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this QF-LGIA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this QF-LGIA.

Article 18. Indemnity, Consequential Damages and Insurance

18.1 Indemnity

The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inactions of its obligations under this QF-LGIA on behalf of the Indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

18.1.1 Indemnified Person

If an Indemnified Person is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Person may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

18.1.2 Indemnifying Party

If an Indemnifying Party is obligated to indemnify and hold any Indemnified Person harmless under this Article 18, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual Loss, net of any insurance or other recovery.

18.1.3 Indemnity Procedures

Promptly after receipt by an Indemnified Person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Person shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the Indemnifying Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the Indemnifying Party, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses.

The Indemnified Person shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be reasonably withheld, conditioned or delayed.

18.2 Consequential Damages

Other than the Liquidated Damages heretofore described, in no event shall either Party be liable under any provision of this QF-LGIA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

18.3 Insurance

Each party shall, at its own expense, maintain in force throughout the period of this QF-LGIA, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in the state where the Point of Interconnection is located:

18.3.1 Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the state in which the Point of Interconnection is located.

18.3.2 Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars ($1,000,000) per occurrence/One Million Dollars ($1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

18.3.3 Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, including death, and property damage.

18.3.4 Excess Public Liability Insurance over and above the Employers' Liability Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars ($20,000,000) per occurrence/Twenty Million Dollars ($20,000,000) aggregate.

18.3.5 The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Public Liability Insurance policies shall name the other Party, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this QF-LGIA against the Other Party Group and provide thirty (30) Calendar Days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.

18.3.6 The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each,

except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.

18.3.7 The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this QF-LGIA, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.

18.3.8 The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this QF-LGIA.

18.3.9 Within ten (10) days following execution of this QF-LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, each Party shall provide certification of all insurance required in this QF-LGIA, executed by each insurer or by an authorized representative of each insurer.

18.3.10 Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade or better by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this article, it shall notify the other Party that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

18.3.11 The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this QF-LGIA.

Article 19. Assignment

19.1 Assignment

This QF-LGIA may be assigned by either Party only with the written consent of the other; provided that either Party may assign this QF-LGIA without the consent of the other Party to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this QF-LGIA; and provided further that Interconnection Customer shall have the right to assign this QF-LGIA, without the consent of Transmission Provider, for collateral

security purposes to aid in providing financing for the Large Generating Facility, provided that Interconnection Customer will promptly notify Transmission Provider of any such assignment. Any financing arrangement entered into by Interconnection Customer pursuant to this article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify Transmission Provider of the date and particulars of any such exercise of assignment right(s), including providing the Transmission Provider with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this article is void and ineffective. Any assignment under this QF-LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

Article 20. Severability

20.1 Severability

If any provision in this QF-LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this QF-LGIA; provided that if Interconnection Customer (or any third party, but only if such third party is not acting at the direction of Transmission Provider) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

Article 21. Comparability

21.1 Comparability

The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

Article 22. Confidentiality

22.1 Confidentiality

Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this QF-LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential.

If requested by either Party, the other Party shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information. The release of Confidential Information shall be subject to Applicable Laws and Regulations and Applicable Reliability Standards.

22.1.1 Term

During the term of this QF-LGIA, and for a period of three (3) years after the expiration or termination of this QF-LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

22.1.2 Scope

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this QF-LGIA; or (6) is required**,** in accordance with Article 22.1.7 of the QF-LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this QF-LGIA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

22.1.3 Release of Confidential Information

Neither Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by the Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be or considering providing financing to or equity participation with Interconnection Customer, or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with this QF-LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

22.1.4 Rights

Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Party of Confidential Information shall not be deemed a waiver by either Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

22.1.5 No Warranties

By providing Confidential Information, neither Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, neither Party obligates itself to provide any particular information or Confidential Information to the other Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

22.1.6 Standard of Care

Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this QF-LGIA or its regulatory requirements.

22.1.7 Order of Disclosure

If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires either Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request(s) or requirement(s) so that the other Party may seek an appropriate protective order or waive compliance with the terms of this QF-LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

22.1.8 Termination of Agreement

Upon termination of this QF-LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.

22.1.9 Remedies

The Parties agree that monetary damages would be inadequate to compensate a Party for the other Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

22.1.10 Disclosure to OPUC or its Staff

Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 CFR section 1 b.20, if OPUC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this QF-LGIA, the Party shall provide the requested information to OPUC or its staff, within the time provided for in the request for information. In providing the information to OPUC or its staff, the Party must request that the information be treated as confidential and non-public by OPUC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Party to this QF-LGIA prior to the release of the Confidential Information to OPUC or its staff. The Party shall notify the other Party to the QF-LGIA when it is notified by OPUC or its staff that a request to release Confidential Information has been received by OPUC, at which time either of the Parties may respond before such information would be made public.

22.1.11

Subject to the exception in Article 22.1.10, any information that a Party claims is competitively sensitive, commercial or financial information under this QF-LGIA ("Confidential Information") shall not be disclosed by the other Party to any person not employed or retained by the other Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this QF-LGIA or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of the other Party's Confidential Information

under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

Article 23. Environmental Releases

23.1 Environmental Releases

Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

Article 24. Information Requirements

24.1 Information Acquisition

Transmission Provider and Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.

24.2 Information Submission by Transmission Provider

The initial information submission by Transmission Provider shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include Transmission System information necessary to allow Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Parties. On a monthly basis Transmission Provider shall provide Interconnection Customer a status report on the construction and installation of Transmission Provider's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

24.3 Updated Information Submission by Interconnection Customer

The updated information submission by Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. Interconnection Customer shall submit a completed copy of the Large Generating Facility data requirements contained in Appendix 1 to the

LGIP. It shall also include any additional information provided to Transmission Provider for the Feasibility and Facilities Study. Information in this submission shall be the most current Large Generating Facility design or expected performance data. Information submitted for stability models shall be compatible with Transmission Provider standard models. If there is no compatible model, Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If Interconnection Customer's data is materially different from what was originally provided to Transmission Provider pursuant to the Interconnection Study Agreement between Transmission Provider and Interconnection Customer, then Transmission Provider will conduct appropriate studies to determine the impact on Transmission Provider Transmission System based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed.

24.4 Information Supplementation

Prior to the Commercial Operation Date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Large Generating Facility information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Large Generating Facility as required by Good Utility Practice such as an open circuit "step voltage" test on the Large Generating Facility to verify proper operation of the Large Generating Facility's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent change in Large Generating Facility terminal voltage initiated by a change in the voltage regulators reference voltage. Interconnection Customer shall provide validated test recordings showing the responses of Large Generating Facility terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Large Generating Facility's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Large Generating Facility terminal or field voltages is provided. Large Generating Facility testing shall be conducted and results provided to Transmission Provider for each individual generating unit in a station.

Subsequent to the Commercial Operation Date, Interconnection Customer shall provide Transmission Provider any information changes due to equipment replacement, repair, or adjustment. Transmission Provider shall provide Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Transmission Provider-owned substation that may affect Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information no later than thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

Article 25. Information Access and Audit Rights

25.1 Information Access

Each Party (the "disclosing Party") shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this QF-LGIA; and (ii) carry out its obligations and responsibilities under this QF-LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this QF-LGIA.

25.2 Reporting of Non-Force Majeure Events

Each Party (the "notifying Party") shall notify the other Party when the notifying Party becomes aware of its inability to comply with the provisions of this QF-LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this QF-LGIA.

25.3 Audit Rights

Subject to the requirements of confidentiality under Article 22 of this QF-LGIA, each Party shall have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party's accounts and records pertaining to either Party's performance or either Party's satisfaction of obligations under this QF-LGIA. Such audit rights shall include audits of the other Party's costs, calculation of invoiced amounts, Transmission Provider's efforts to allocate responsibility for the provision of reactive support to the Transmission System, Transmission Provider's efforts to allocate responsibility for interruption or reduction of generation on the Transmission System, and each Party's actions in an Emergency Condition. Any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each Party's performance and satisfaction of obligations under this QF-LGIA. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

25.4 Audit Rights Periods

25.4.1 Audit Rights Period for Construction-Related Accounts and Records

Accounts and records related to the design, engineering, procurement, and construction of Transmission Provider's Interconnection Facilities and Network Upgrades shall be subject to audit for a period of twenty-four months following Transmission Provider's issuance of a final invoice in accordance with Article 12.2.

25.4.2 Audit Rights Period for All Other Accounts and Records

Accounts and records related to either Party's performance or satisfaction of all obligations under this QF-LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought.

25.5 Audit Results

If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

Article 26. Subcontractors

26.1 General

Nothing in this QF-LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this QF-LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this QF-LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

26.2 Responsibility of Principal.

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this QF-LGIA. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall Transmission Provider be liable for the actions or inactions of Interconnection Customer or its subcontractors with respect to obligations of Interconnection Customer under Article 5 of this QF-LGIA. Any applicable obligation imposed by this QF-LGIA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

26.3 No Limitation by Insurance

The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

Article 27. Disputes

27.1 Submission

In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this QF-LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this QF-LGIA.

27.2 Arbitration of Disputes

(1) An interconnecting public utility or an interconnection applicant may petition the Commission for arbitration of disputes arising during review of an application to interconnect a large generator facility or during negotiation of an interconnection agreement. If the public utility or the applicant petitions the Commission to arbitrate their dispute, then the Commission will use an administrative law judge (ALJ) as arbitrator unless workload constraints necessitate the use of an outside arbitrator.

(2) A petition for arbitration of an interconnection agreement must contain: (a) A statement of all unresolved issues; (b) A description of each party's position on the unresolved issues; and (c) A proposed agreement addressing all issues, including those on which the parties have reached agreement and those that are in dispute.

(3) A petition for arbitration of a dispute arising during review of an application to interconnect a large generator facility must contain: (a) A statement of all unresolved issues; (b) A description of each party's position on the unresolved issues; and (c) A proposed resolution for each unresolved issue.

(4) Respondent may file a response within 25 calendar days of the petition for arbitration. In the response, the respondent must address each issue listed in the petition, describe the respondent's position on those issues, and present any additional issues for which the respondent seeks resolution.

(5) The filing of a petition for arbitration of a dispute arising during review of an application to interconnect a large generator facility does not affect the application's queue position.

(6) The arbitration is conducted in a manner similar to a contested case proceeding, and the arbitrator has the same authority to conduct the arbitration process as an ALJ has in conducting hearings under the Commission's rules, but the arbitration process is streamlined. The arbitrator holds an early conference to discuss processing of the case. The arbitrator establishes the schedule and decides whether an oral hearing is necessary. After the oral hearing or other procedures (for example, rounds of comments), each party

submits its final proposed interconnection agreement or resolution of disputed issues. The arbitrator chooses between the two final offers. If neither offer is consistent with applicable statutes, Commission rules, and Commission policies, then the arbitrator will make a decision that meets those requirements.

(7) The arbitrator may allow formal discovery only to the extent deemed necessary. Parties are required to make good faith attempts to exchange information relevant to any disputed issue in an informal, voluntary, and prompt manner. Unresolved discovery disputes are resolved by the arbitrator upon request of a party. The arbitrator will order a party to provide information if the arbitrator determines the requesting party has a reasonable need for the requested information and that the request is not overly burdensome.

(8) Only the two negotiating parties have full party status. The arbitrator may confer with Commission staff for assistance throughout the arbitration process.

(9) To keep the process moving forward, appeals to the Commission are not allowed during the arbitration process. An arbitrator may certify a question to the Commission if the arbitrator believes it is necessary.

(10) To accommodate the need for flexibility, the arbitrator may use different procedures so long as the procedures are fair, treat the parties equitably, and substantially comply with the procedures listed here.

(11) The arbitrator must serve the arbitration decision on the interconnecting public utility and the interconnection applicant. The parties may file comments on the arbitration decision with the Commission within 10 calendar days after service.

(12) The Commission must accept, reject, or modify an arbitration decision within 30 calendar days after service of the decision.

(13) Within 14 calendar days after the Commission issues an order on a petition for arbitration of an interconnection agreement, the petitioner must prepare an interconnection agreement complying with the terms of the decision and serve it on respondent. Respondent must either sign and file the interconnection agreement or file objections to it within 10 calendar days of service of the agreement. If objections are filed, respondent must state how the interconnection agreement fails to comply with the Commission order and offer substitute language complying with the decision. The Commission must approve or reject a filed interconnection agreement within 20 calendar days of its filing or the agreement is deemed approved.

(14) If petitioner, without respondent's consent, fails to timely prepare and serve an interconnection agreement on respondent, respondent may file a motion requesting the Commission dismiss the petition for arbitration with prejudice. The Commission may grant such motion if the petitioner's failure to timely prepare and serve the interconnection agreement was the result of inexcusable neglect on the part of petitioner.

(15) The public utility and the applicant may agree to hire an outside arbitrator rather than file a petition with the Commission pursuant to article 27.3.

27.3 External Arbitration Procedures

Any arbitration initiated under this QF-LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules"; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

27.4 Arbitration Decisions

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this QF-LGIA and shall have no power to modify or change any provision of this QF-LGIA in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act.

27.5 Costs

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

Article 28. Representations, Warranties, and Covenants

28.1 General

Each Party makes the following representations, warranties and covenants:

28.1.1 Good Standing

Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this QF-LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this QF-LGIA.

28.1.2 Authority

Such Party has the right, power and authority to enter into this QF-LGIA, to become a Party hereto and to perform its obligations hereunder. This QF-LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

28.1.3 No Conflict

The execution, delivery and performance of this QF-LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

28.1.4 Consent and Approval

Such Party has sought or obtained, or, in accordance with this QF-LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this QF-LGIA, and it will provide to any Governmental Authority notice of any actions under this QF-LGIA that are required by Applicable Laws and Regulations.

Article 29 Miscellaneous

29.1 Binding Effect

This QF-LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

29.2 Conflicts

In the event of a conflict between the body of this QF-LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this QF-LGIA shall prevail and be deemed the final intent of the Parties.

29.3 Rules of Interpretation

This QF-LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this QF-LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this QF-LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this QF-LGIA or such Appendix to this QF-LGIA, or such Section to the QF-LG1P or such Appendix to the QP-LGIP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this QF-LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

29.4 Entire Agreement

This QF-LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this QF-LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this QF-LGIA.

29.5 No Third-Party Beneficiaries

This QF-LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

29.6 Waiver

The failure of a Party to this QF-LGIA to insist, on any occasion, upon strict performance of any provision of this QF-LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this QF-LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this QF-LGIA. Termination or Default of this QF-LGIA for any reason by Interconnection Customer shall not constitute a waiver of Interconnection Customer's legal rights to obtain an interconnection from Transmission Provider. Any waiver of this QF-LGIA shall, if requested, be provided in writing.

29.7 Headings

The descriptive headings of the various Articles of this QF-LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this QF-LGIA.

29.8 Multiple Counterparts

This QF-LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

29.9 Amendment

The Parties may by mutual agreement amend this QF-LGIA by a written instrument duly executed by the Parties.

29.10 Modification by the Parties

The Parties may by mutual agreement amend the Appendices to this QF-LGIA by a written instrument duly executed by the Parties. Such amendment shall become effective and a part of this QF-LGIA upon satisfaction of all Applicable Laws and Regulations.

29.11 Reservation of Rights

Transmission Provider shall have the right to make a unilateral filing with OPUC to modify this QF-LGIA with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under applicable provision of the Federal or Oregon law or the OPUC's rules and regulations thereunder, and Interconnection Customer shall have the right to make a unilateral filing with OPUC to modify this QF-LGIA pursuant to any other applicable provision of Federal or Oregon law or the OPUC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before OPUC in which such modifications may be considered.

29.12 No Partnership

This QF-LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent of representative of, or to otherwise bind, the other Party.

EXHIBIT 3

IN WITNESS WHEREOF, the Parties have executed this QF-LGIA in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

clc

PORTLAND GENERAL ELECTRIC COMPANY	**MADRAS SOLAR PV1, LLC**
By: Maria M. Pope (Apr 12, 2021 10:00 PDT)	By: gorman john (Apr 10, 2021 00:50 GMT+7)
Title: President and CEO	Title: Authorized Signatory
Date: April 8, 2021	Date: April 8, 2021

EXHIBIT 3

Appendix A to QF-LGIA - Interconnection Facilities, Network Upgrades and Distribution Upgrades

1. Interconnection Facilities

(a) Interconnection Customer's Interconnection Facilities:

The Interconnection Customer will design, permit, build, and maintain a 230 kV generator lead line from the Interconnection Customer's generation site to a new PGE-owned Point of Interconnection (POI) substation. The Point of Change of Ownership between the Interconnection Customer's generator lead line and the POI substation will be at the last dead-end structure before entering the POI substation. The Interconnection Customer's Interconnection Facilities will be designed, constructed, and operated in accordance with the PGE Interconnection Requirements document available on the PGE OASIS site.

(b) Transmission Provider's Interconnection Facilities:

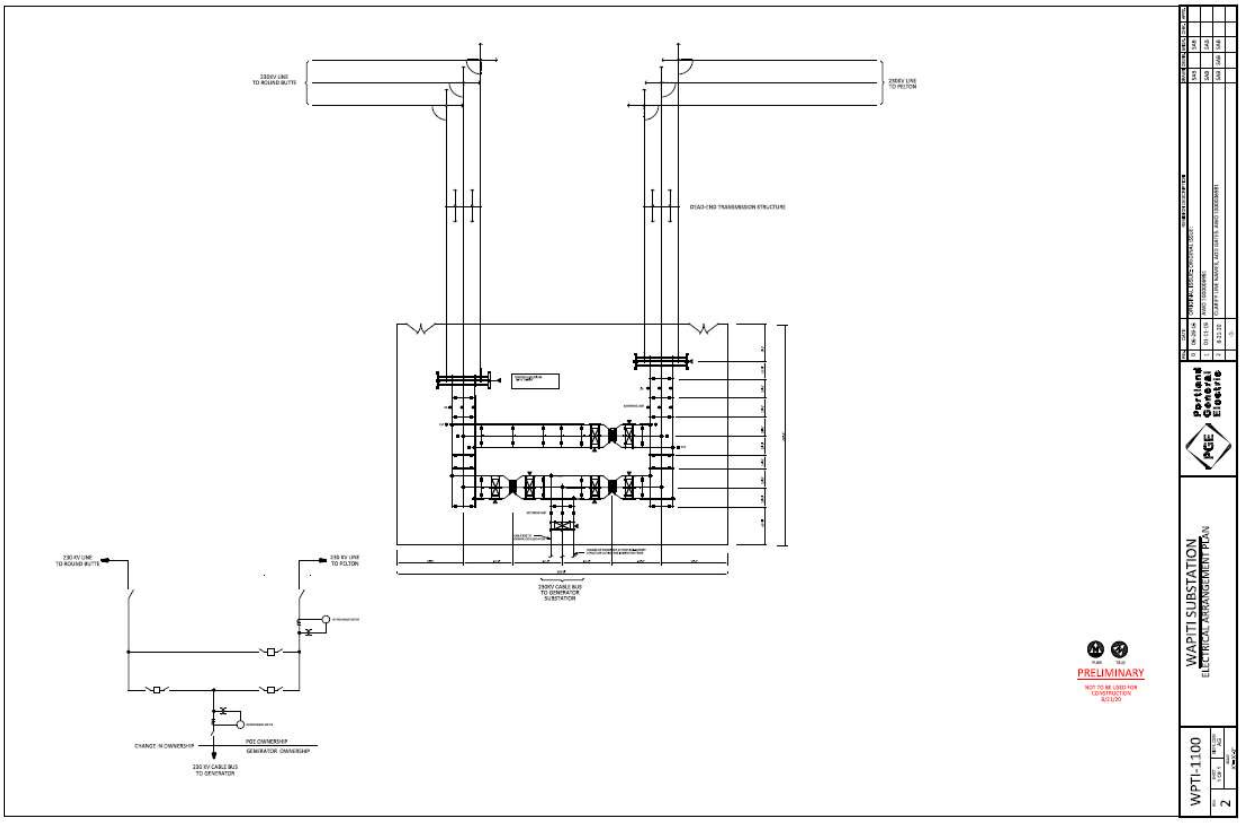
The conductors and any disconnecting devices between the Point of Change of Ownership and the POI substation bus are considered the Transmission Provider's Interconnection Facilities.

2. Network Upgrades:

(a) Stand Alone Network Upgrades:

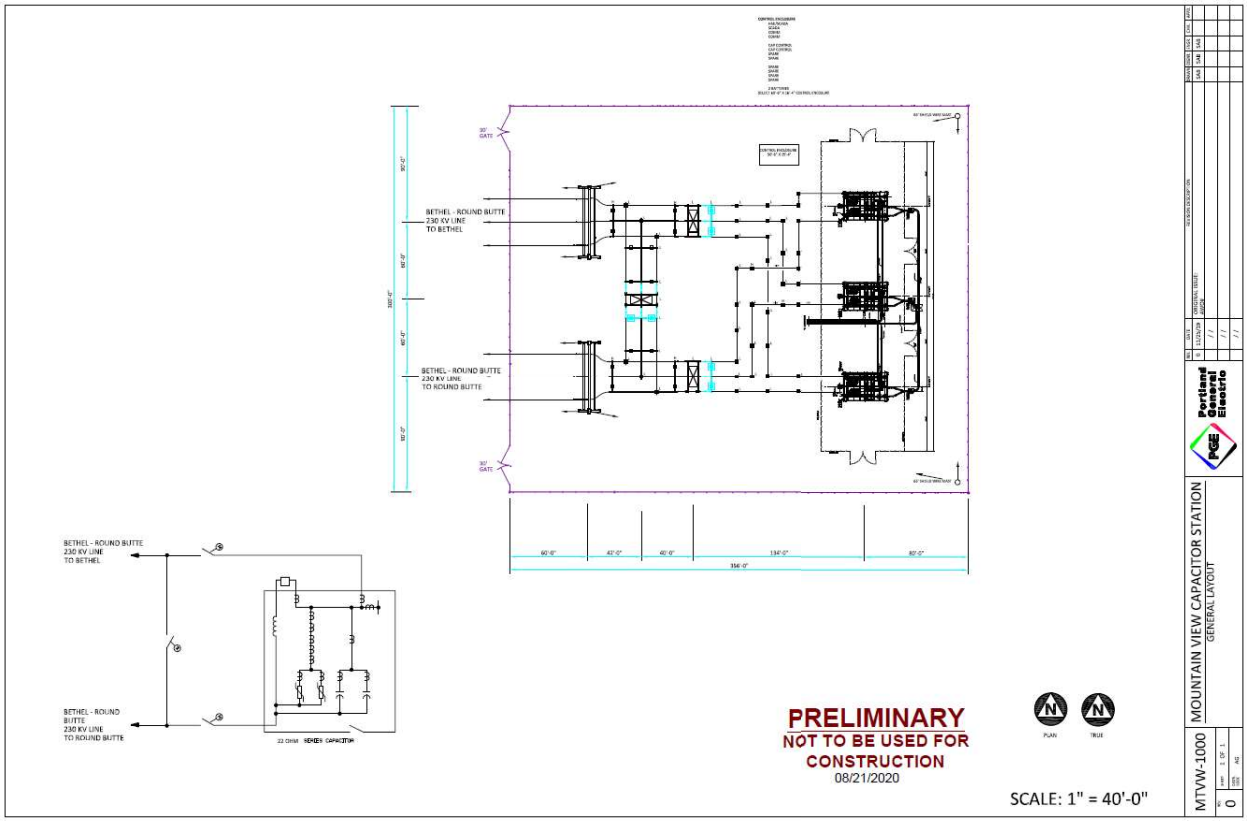
New Point of Interconnection (POI) Substation – The POI substation will have a fenced area of 233' x 348' with a surface area of 2.2 acres. The substation will include three 230 kV circuit breakers and nine 230 kV disconnect switches connected in a ring bus configuration. The substation will include all necessary associated land, bus, controls (including the control enclosure), metering, relay, and communication facilities constructed to accommodate the interconnection of the Interconnection Customer's Interconnection Facility. A microwave tower will be constructed at the POI substation to communicate with the PGE communications network.

Figure 1:



Series Capacitor Substation – A new 230 kV series capacitor will be constructed in a new substation adjacent to the existing PGE-owned Round Butte substation on property owned by PGE. This substation will have a fenced area of approximately 300' x 356' with a surface area of 3 acres. The substation will include three 230 kV disconnect switches and all necessary associated land, bus, controls (including the control enclosure), metering, relay, and communication facilities constructed to accommodate the new series capacitor substation. The Series Capacitor Substation is depicted below in Figure 2.

Figure 2:



(b) Other Network Upgrades:

Transmission Line Modifications – Transmission line modifications are required to connect the POI substation and the series capacitor substation to the PGE Transmission System. The POI substation will require the construction of four new steel transmission structures and the existing Pelton-Round Butte 230 kV line will be split, creating the Pelton-POI Substation 230 kV line and the Round Butte-POI Substation 230 kV line. The series capacitor substation will require the construction of eight new steel transmission structures and the Bethel-Round Butte 230 kV line will be modified to tie into the new series capacitor substation.

3. Distribution Upgrades:

There are no Distribution Upgrades required for this generation interconnection.

4. Point of Interconnection:

A new 230 kV substation on PGE's 230 kV Pelton-Round Butte 230 kV generation lead line.

5. Point of Change of Ownership:

The Point of Change of Ownership will be last dead-end structure before entering the POI substation as indicated on Figure 1 above.

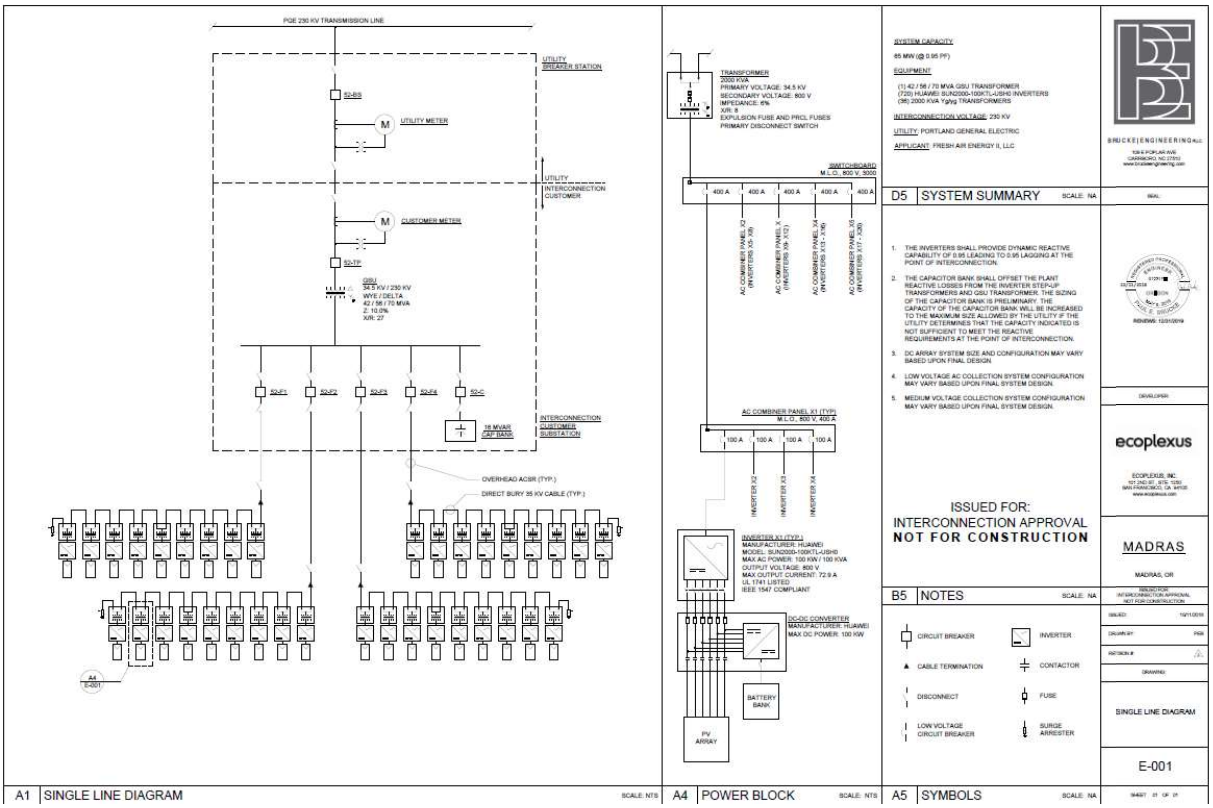
6. Customer's Generation Facilities and Associated Responsibilities:

The Interconnection Customer, at its own cost, is responsible for the design, engineering, procurement, installation, operation, maintenance, testing, and repairs of the new equipment on the Interconnection Customer's side of the Point of Interconnection as such POI is defined by the Interconnection Facilities Study for QF-LGIP #17-068.

In compliance with Good Utility Practice, Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers, and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Transmission System that is not otherwise isolated by Transmission Provider's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Transmission System.

Customer's one-line diagram is depicted below in Figure 3.

Figure 3:



7. Cost Summary:

Total Project Cost Estimate	
Point of Interconnection Substation	$9,533,897
Series Capacitor Substation	$12,100,456
Transmission Modification	$1,841,034
Total	**$23,475,387**

Appendix B to QF-LGIA - Milestones

Within 15 business days from receipt of final executed QF-LGIA, Interconnection Customer shall provide one of the following:

☐ (A) reasonable evidence of continued Site Control to the Transmission Provider; or
☐ (B) posting with the Transmission Provider a $250,000 non-refundable additional security, which shall be applied toward Transmission Provider's Interconnection Facility costs.

Additionally, within 15 business days from receipt of final executed QF-LGIA, Interconnection Customer also shall provide reasonable evidence that one or more of the following milestones in the development of the Large Generating Facility, at Interconnection Customer election, has been achieved:

☐ (i) the execution of a contract for the supply or transportation of fuel to the Large Generating Facility;
☐ (ii) execution of a contract for the engineering for, procurement of major equipment for, or construction of, the Large Generating Facility;
☐ (iii) execution of a contract for the sale of electric energy or capacity from the Large Generation Facility; or
☐ (iv) application for an air, water, or land use permit.

The Interconnection Customer and the Transmission Provider mutually agree to the following dates:

- Date by which the Interconnection Customer shall provide security in the amount of $23,475,387.00 to the Transmission Provider in accordance with Article 11.5: **April 30, 2021**

- Date by which Interconnection Customer shall provide written authorization to Transmission Provider to proceed with design and procurement: **April 30, 2021**

- Date by which Interconnection Customer shall provide the location for the substation and new line: **April 30, 2021**

- Date by which Transmission Provider shall have land at Point of Interconnection surveyed and marked: **June 1, 2021**

- Date by which Transmission Provider will begin WECC path rating process: **July 1, 2021**

- Date by which Interconnection Customer shall provide to Transmission Provider a copy of all required permits and easements: **July 15, 2021**

- Date by which Interconnection Customer shall provide to Transmission Provider a fully executed and acknowledged warranty deed conveying free and clear title of the new Point of Interconnection substation site to Transmission Provider, together with legal and practical access to the same: **July 15, 2021**

- Date by which Interconnection Customer shall provide written authorization to Transmission Provider to proceed with construction: **September 1, 2021**

- Date by which Transmission Provider will file with FERC to request approval for non-project use of project land under its FERC hydroelectric license for the Pelton-Round Butte Project, FERC No. 2030: **120 days following results of Interconnection Customer's completed environmental and cultural resources studies to support the request to FERC for approval for non-project use**

- Transmission Provider's Interconnection Facilities In-Service Date: **February 1, 2024*+**

  * Interconnection Customer is responsible for back feed power and station service arrangements prior to and after In-Service Date. Any power flows to or from the Generating Facility at the Point of Interconnection that are due to station service at the Generating Facility or any other service shall be metered and accounted for under separate service arrangements rather than under this LGIA. Station Service power must be arranged for and acquired from the local retail electricity service provider as the Generating Facility is located outside of PGE's retail service territory. The metering of any power flows to or from the Generating Facility at the Point of Interconnection shall be revenue quality metering.

  + As indicated in the Facilities Study, there are many factors outside of the Transmission Provider's control that could extend the time required for completing construction of the facilities discussed above. These factors include, but are not limited to, unexpected delays in the permitting process, required environmental and cultural resources reviews, FERC hydro license approval for the non-project use of project land, the WECC Path Rating Process, long lead times for obtaining electrical equipment, shortages of qualified workers, the effects of the COVID-19 pandemic, contractual negotiations with third parties, and inclement weather conditions.

    Additionally, because the line to which the Interconnection Customer seeks to interconnect is part of the Pelton-Round Butte Project, FERC No. 2030, which is jointly owned by Transmission Provider and the Confederated Tribes of Warm Springs, Transmission Provider notes that the Confederated Tribes of Warm Springs could take positions in any legal or regulatory proceeding relating to this LGIA that could result in delays and/or denials in efforts to obtain necessary approvals.

- Initial Synchronization Date: **April 1, 2024*****

** Interconnection Customer must request Initial Synchronization from Transmission Provider, and the Transmission Provider must approve, in writing before Initial Synchronization can occur.

- Commercial Operation Date: **April 28, 2024** ***+++

*** Interconnection Customer must request Commercial Operation from Transmission Provider in writing

+++ Transmission Provider must provide written approval for Commercial Operation

Construction Option: Construction of all Transmission Provider's Network Upgrades and Interconnection Facilities shall be done in accordance with Article 5.1 of this LGIA.

Interconnection Customer elects to exercise the option to build the Stand-Alone Network Upgrades identified in Appendix A and pursuant to section 5.1.3 of this agreement.

Appendix C to QF-LGIA - Interconnection Details

The Interconnection Customer shall comply with *PGE's Facility Connection Requirements for Generation Resources* located on PGE's OASIS website.

PGE's Facility Connection Requirements for Generation Resources are incorporated herein by reference and apply to all interconnections regardless of electrical source type, including but not limited to, synchronous generation facilities, induction generation facilities, and inverter-based facilities (i.e. solar photovoltaic or battery energy storage facilities).

I. Project Details

- Project Name – Madras Solar
- Size – 65 MW
- Generating Facility Details – Solar Photovoltaic and Battery Energy Storage
- Generation Type – Solar Photovoltaic
- Interconnection Type – NRIS
- Location – New 230 kV substation approximately 4.9 miles north of PGE's Round Butte Substation near Madras, Oregon
- Power Factor – .95 leading to .95 lagging of full rated output at the Point of Interconnection
- Point of Interconnection – New 230 kV substation approximately 4.9 miles north of PGE's Round Butte Substation near Madras, Oregon
- Point of Change of Ownership – The last dead-end structure prior to entering the new POI substation.
- Generating Facility will be IEEE1547 and UL1741 compliant prior to energization.

Standard Operational Requirements

a) Reliability Standards

"Applicable Reliability Standards," as defined in Article 1 of the QF-LGIA, include the requirements and guidelines of the Applicable Reliability Council, including the regional reliability standards promulgated by the Western Electricity Coordinating Council (WECC), such as WECC's Automatic Voltage Regulators (AVR) standard.

b) Notice of Change in Generation and/or Charging Level

Whenever the net generation of the Generating Facility changes due to a mechanical event or equipment failure by an amount greater than or equal to 5 megawatts within the scheduling hour, the Interconnection Customer must notify the Transmission Provider immediately. Interconnection Customer must provide such notice for both planned and unplanned changes in generation levels. The required notice may be given by electronic communication (such as email) or by telephone.

Generation level will be limited and shall not exceed 65 MW at the Point of Interconnection at any time.

PGE's Balancing Authority Operator (BAO), Phone: (503) 464-8560.

c) Notice of Change of Generation On-Line/Off-Line Status

Interconnection Customer must notify PGE's BAO at the phone number provided above as to when the generation is going off-line and as to when the generation will be coming on-line. Interconnection Customer must also provide reasons for either event. At least 48 hours advance notice is required for planned events . For unplanned events, Interconnection Customer must provide notice as soon as possible.

d) Voltage and Frequency Response

Each interconnected unit of the Generating Facility shall be capable, at all times (including during an electric disturbance), of continuous operation at 0.95 to 1.05 per unit (pu) voltage of nominal voltage, as measured at the Point of Interconnection, and shall be kept online and in operation during frequency deviations beyond the range of 59.5 to 60.5 Hz to the extent required by the Applicable Reliability Standards.

e) Reactive Power

In addition to the requirements in Section 9.5.1, Power Factor Design Criteria, each interconnected unit of the Generating Facility shall produce or absorb Reactive Power between 0.95 leading and 0.95 lagging power factor for steady state conditions to meet voltage schedules specified by PGE's BAO. Reactive Power will be measured at the Point of Interconnection for both synchronous and non-synchronous generators. Each interconnected unit of the Generating Facility also shall produce or absorb Reactive Power up to the temporary overload capability of the interconnected unit of the Generating Facility during electric disturbances. An interconnected unit of the Generating Facility may satisfy its Reactive Power and voltage requirements either by its operation or by using separate devices.

f) Disconnection, Switching, and Clearance Procedures

Whenever disconnecting an interconnected unit of the Generating Facility from Transmission Provider's Transmission System, the Interconnection Customer shall perform such disconnection in accordance with Good Utility Practice and in compliance with Transmission Provider's transmission facility clearance procedures, as may be amended, reasonably and without discrimination to the Interconnection Customer, by Transmission Operator in its sole discretion from time to time. Any switching on the Transmission Provider's Transmission System shall be performed by personnel on the Transmission Provider's certified switch person list. If Transmission Provider amends its transmission facility clearance procedures, it will notify the Interconnection Customer as soon as practicable thereafter and provide to the Interconnection Customer a copy of the new procedures.

g) Organized Market Requirements

The Transmission Provider is a participant in the California ISO Energy Imbalance Market or other organized market ("Organized Market"). The Generating Facility is interconnected to Transmission Provider's Transmission System. Interconnection Customer shall comply, and ensure that the Generating Facility complies, with any applicable requirements, from time to time in effect, of the tariff(s) and business practice(s) of the Transmission Provider, as posted on the OASIS, specifically including the Organized Market requirements of the Transmission Provider.

h) Automatic Data Transfer

Throughout the term of this QF-LGIA, Interconnection Customer shall provide the data specified below by automatic data transfer to the Control Center of the Transmission Provider:

Status of Interconnection Customer's 230 kV breaker at Interconnection Customer's Interconnection Substation and, if required by the Transmission Provider, the 34.5 kV feeder breakers at the Interconnection Customer's Collector Substation;

MW and MVAR at each inverter feeder breaker and total MW and MVAR for the Generating Facility;

Status of each breaker or switch in supplemental capacitor banks (if included);

Total MVAR from each capacitor bank.

i) Additional Data

Interconnection Customer shall, at its sole expense, provide any additional Generating Facility data, forecasts, or other information reasonably required and necessary for Transmission Provider to operate its Transmission System in accordance with Good Utility Practice and any other applicable operating requirements.

j) O&M Costs Assigned to Interconnection Customer

Consistent with this QF-LGIA, including, without limitation, Article 10.5 hereof, Interconnection Customer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of Transmission Provider's Interconnection Facilities (such expenses including overheads are sometimes referred to in this Appendix C as "O&M Costs").

O&M Costs include for example all reasonable costs incurred for Transmission Provider's operations and maintenance activities associated with Transmission Provider's Interconnection Facilities , as well as any modifications needed for any Transmission Provider to obtain billing and meter data, energy management system displays, plant information database information, schedule data and any additional plant information that is required by the Reliability Coordinator or an Organized Market, as well as any additional project-related information that is needed at any Transmission Provider's control center for operational and reliability purposes.

Transmission Provider shall invoice Interconnection Customer for O&M Costs. Interconnection Customer shall submit payment for O&M Costs to Transmission Provider per the instructions indicated on each invoice within thirty (30) days following receipt of invoice.

Appendix D to QF-LGIA - Security Arrangements Details

Infrastructure security of Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day Transmission System reliability and operational security. The OPUC and FERC will expect all Transmission Providers, market participants, and Interconnection Customers interconnected to the Transmission System to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

Appendix E to QF-LGIA - Commercial Operation Date

This Appendix E is a part of the QF-LGIA between Transmission Provider and Interconnection Customer.

[Date]

PGE Transmission Services
121 SW Salmon St., 3WTC0407
Portland, OR 97204

Re: Madras Large Generating Facility

Dear Mr. Foster:

On [Date] [Interconnection Customer] has completed Trial Operation of Unit No. . This letter confirms that [Interconnection Customer] commenced Commercial Operation of the Large Generating Facility, effective as of [Date plus one day].

Thank you.

[Signature]

[Interconnection Customer Representative]

Appendix F to QF-LGIA - Addresses for Delivery of Notices and Billings

Notices:

Transmission Provider:

Portland General Electric Company, Transmission Services
Manager, Transmission Contracts 3WTC0409
121 SW Salmon St.
Portland, OR 97214
Email: transmission.provider@pgn.com
Telephone: (503) 464-7945

Interconnection Customer:

_____
_____
_____
_____
_____
_____

Billings and Payments:

Transmission Provider:

Portland General Electric Company, Transmission Services
Manager, Transmission Contracts 3WTC0407
121 SW Salmon St.
Portland, OR 97214
Email: Transmission.Provider@pgn.com
Telephone: (503) 464-7945

Interconnection Customer:

_____
_____
_____
_____
_____
_____

EXHIBIT 4

Madras Solar-PGE QF-LGIA First Amendment, dated July 11, 2023

FIRST AMENDMENT

TO QUALIFYING FACILITY LARGE GENERATOR INTERCONNECTION AGREEMENT

Madras Solar, LLC

This First Amendment ("Amendment") to the Qualifying Facility Large Generator Interconnection Agreement dated April 8, 2021 ("Agreement") by and between Portland General Electric Company ("PGE") and Madras Solar, LLC ("Interconnection Customer") is effective as of July 11, 2023.

WHEREAS, the Parties agree to revise Appendix A, Appendix B, Appendix C, and Appendix F.

WHEREAS, Article 29.9 of the Agreement requires the Parties to mutually agree to an amendment by written instrument.

NOW, THEREFORE, for and in consideration of the mutual promises of the Parties as set forth herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

- Appendix A: Update certain facilities definitions to show option to build, update certain diagrams
- Appendix B: Add/update multiple milestones, new Commercial Operations Date
- Appendix C: Update generation definition
- Appendix F: Update PGE email address and add Interconnection Customer contact information

In the event there is a conflict between this Amendment and the Agreement, this Amendment shall prevail. All other provisions of the Agreement remain in full force and effect. No amendment to the terms and conditions of this Amendment shall be valid and binding on the parties unless made in writing and signed by an authorized representative of each of the parties. This Amendment is subject to the terms and conditions set forth in the Agreement. Disputes regarding interpretation of this Amendment will be resolved pursuant to the dispute resolution process set forth in the Agreement.

Madras Solar, LLC		**Portland General Electric Company**	
Signature:	John Gorman John Gorman (Jul 11, 2023 17:02 GMT+7)	Signature:	Maria Pope (Jul 19, 2023 15:50 PDT) DJL
Printed Name:	John Gorman	Printed Name:	Maria Pope
Title:	CEO	Title:	President and CEO
Date:	Jul 11, 2023	Date:	Jul 19, 2023

EXHIBIT 4

The below list of appendices are attached to this agreement and incorporated herein

Appendix A

Appendix B

Appendix C

Appendix F

EXHIBIT 4

Appendix A to QF-LGIA - Interconnection Facilities, Network Upgrades and Distribution Upgrades (Revision 1)

1. Interconnection Facilities

(a) Interconnection Customer's Interconnection Facilities:

The Interconnection Customer will design, permit, build, and maintain a 230 kV generator lead line from the Interconnection Customer's generation site to a new PGE-owned Point of Interconnection (POI) substation. The Point of Change of Ownership between the Interconnection Customer's generator lead line and the POI substation will be at the last dead-end structure before entering the POI substation. The Interconnection Customer's Interconnection Facilities will be designed, constructed, and operated in accordance with the PGE Interconnection Requirements document available on the PGE OASIS site.

(b) Transmission Provider's Interconnection Facilities:

The conductors and any disconnecting devices between the Point of Change of Ownership and the POI substation bus are considered the Transmission Provider's Interconnection Facilities. To be designed and built by the Interconnection Customer as the Option to Build was exercised.

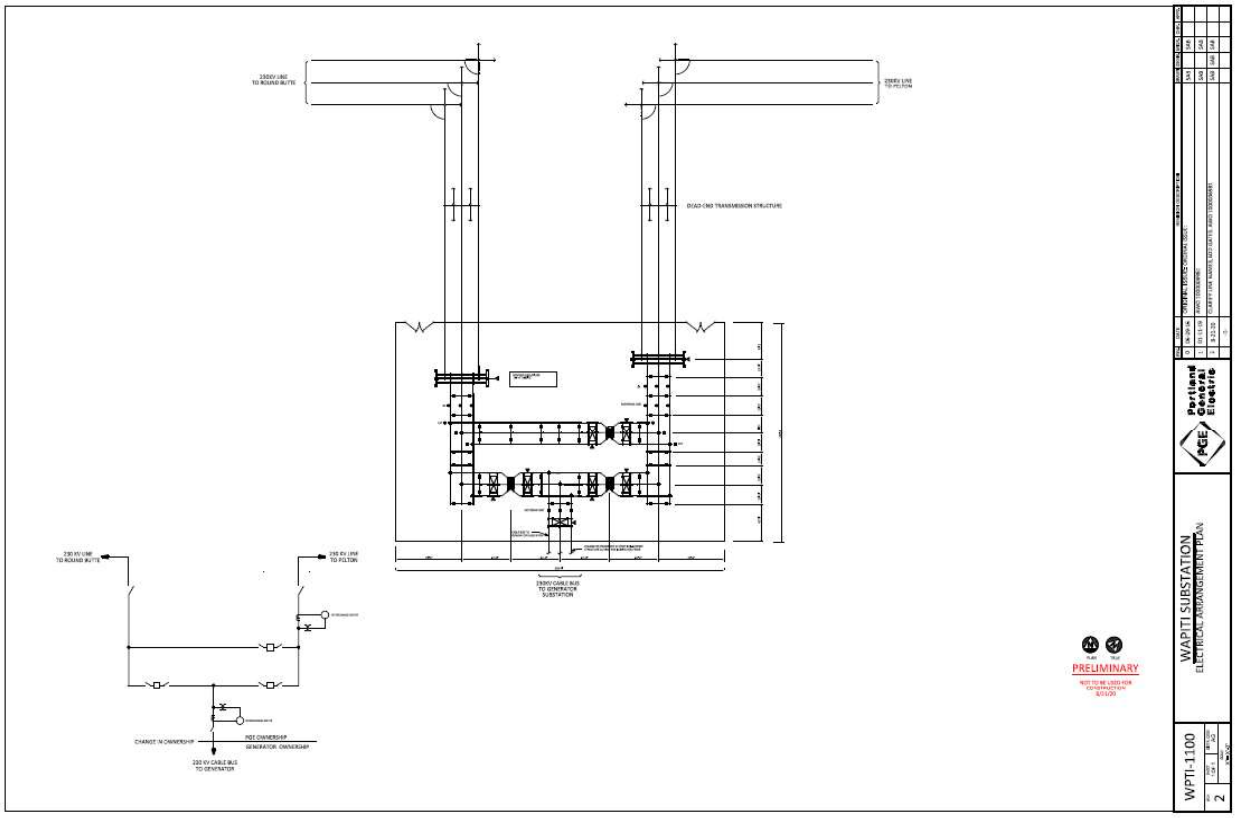
2. Network Upgrades:

(a) Stand Alone Network Upgrades:

New Point of Interconnection (POI) Substation – The POI substation will have a fenced area of 233' x 348' with a surface area of 2.2 acres. The substation will include three 230 kV circuit breakers and nine 230 kV disconnect switches connected in a ring bus configuration. The substation will include all necessary associated land, bus, controls (including the control enclosure), metering, relay, and communication facilities constructed to accommodate the interconnection of the Interconnection Customer's Interconnection Facility. To be designed and built by the Interconnection Customer as the Option to Build was exercised.

EXHIBIT 4

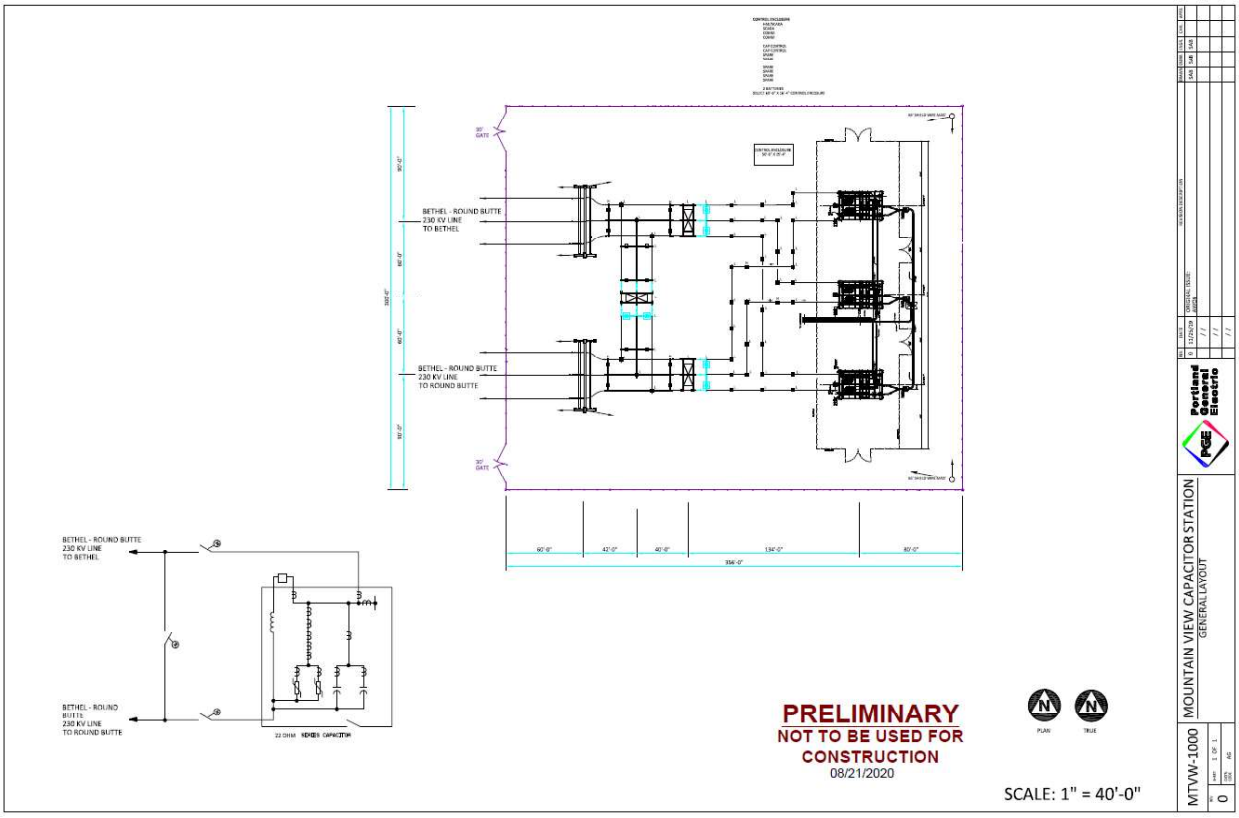
Figure 1:



Series Capacitor Substation – A new 230 kV series capacitor will be constructed in a new substation adjacent to the existing PGE-owned Round Butte substation on property owned by PGE. This substation will have a fenced area of approximately 300' x 356' with a surface area of 3 acres. The substation will include three 230 kV disconnect switches and all necessary associated land, bus, controls (including the control enclosure), metering, relay, and communication facilities constructed to accommodate the new series capacitor substation. To be designed and built by the Interconnection Customer as the Option to Build was exercised. The Series Capacitor Substation is depicted below in Figure 2.

EXHIBIT 4

Figure 2:



(b) Other Network Upgrades:

Transmission Line Modifications – Transmission line modifications are required to connect the POI substation and the series capacitor substation to the PGE Transmission System. The POI substation will require the construction of four new steel transmission structures and the existing Pelton-Round Butte 230 kV line will be split, creating the Pelton-POI Substation 230 kV line and the Round Butte-POI Substation 230 kV line. The series capacitor substation will require the construction of eight new steel transmission structures and the Bethel-Round Butte 230 kV line will be modified to tie into the new series capacitor substation.

3. Distribution Upgrades:

There are no Distribution Upgrades required for this generation interconnection.

4. Point of Interconnection:

A new 230 kV substation on PGE's 230 kV Pelton-Round Butte 230 kV generation lead line.

5. Point of Change of Ownership:

The Point of Change of Ownership will be last dead-end structure before entering the POI substation as indicated on Figure 1 above.

6. Customer's Generation Facilities and Associated Responsibilities:

The Interconnection Customer, at its own cost, is responsible for the design, engineering, procurement, installation, operation, maintenance, testing, and repairs of the new equipment on the Interconnection Customer's side of the Point of Interconnection as such POI is defined by the Interconnection Facilities Study for QF-LGIP #17-068.

In compliance with Good Utility Practice, Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers, and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Transmission System that is not otherwise isolated by Transmission Provider's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Transmission System.

Customer's one-line diagram is depicted below in Figure 3.

Figure 3:

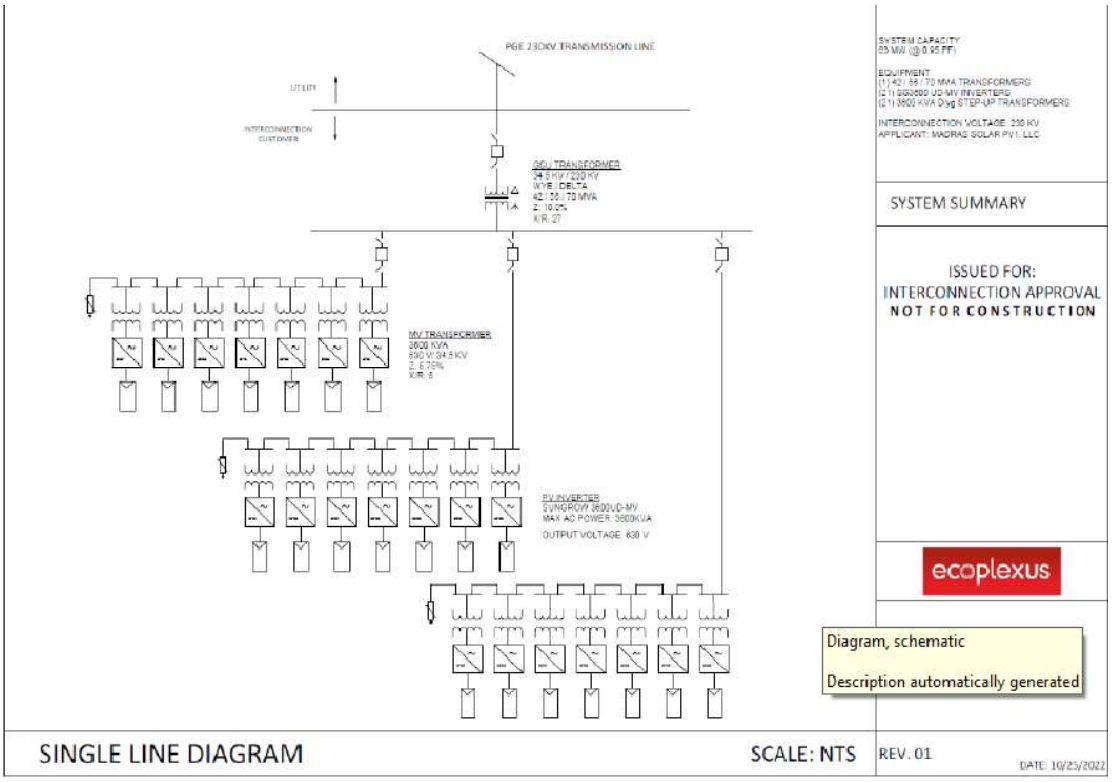


EXHIBIT 4

7. Cost Summary:

Total Project Cost Estimate	
Point of Interconnection Substation	$9,533,897
Series Capacitor Substation	$12,100,456
Transmission Modification	$1,841,034
Total	**$23,475,387**

Appendix B to QF-LGIA – Milestones (Revision 1)

Within 15 business days from receipt of final executed QF-LGIA, Interconnection Customer shall provide one of the following:

☐ (A) reasonable evidence of continued Site Control to the Transmission Provider;
or
☐ (B) posting with the Transmission Provider a $250,000 non-refundable additional security, which shall be applied toward Transmission Provider's Interconnection Facility costs.

Additionally, within 15 business days from receipt of final executed QF-LGIA, Interconnection Customer also shall provide reasonable evidence that one or more of the following milestones in the development of the Large Generating Facility, at Interconnection Customer election, has been achieved:

☐ (i) the execution of a contract for the supply or transportation of fuel to the Large Generating Facility;
☐ (ii) execution of a contract for the engineering for, procurement of major equipment for, or construction of, the Large Generating Facility;
☐ (iii) execution of a contract for the sale of electric energy or capacity from the Large Generation Facility; or
☐ (iv) application for an air, water, or land use permit.

The Interconnection Customer and the Transmission Provider mutually agree to the following dates:

- Date by which the Interconnection Customer shall provide security in the amount of $23,475,387.00 to the Transmission Provider in accordance with Article 11.5: **April 30, 2021** *Complete*

- Date by which Interconnection Customer shall provide written authorization to Transmission Provider to proceed with design and procurement: **April 30, 2021** *Complete*

- Date by which Interconnection Customer shall provide the location for the Point of Interconnection substation and new line: **April 30, 2021** *Complete*

- Interconnection Customer agrees to proposed QF-LGIA Amendment: **July 10, 2023**

- Date by which Interconnection Customer shall provide to Transmission Provider a complete construction schedule with milestone dates that include 30%, 60%, 90% and/or IFC drawing package submittals for both the POI and FSC facilities: **September 29, 2023**

- Date by which Interconnection Customer shall request outage(s) for connection of FSC and/or POI substation: **October 1, 2023**

- Date by which Interconnection Customer will submit required information to support Transmission Provider request for non-project use of project land under its FERC hydroelectric license for the Pelton-Round Butte Project, FERC No. 2030: **October 31, 2023**

- Date by which Interconnection Customer shall provide to Transmission Provider a 30% drawing set for both the POI and FSC facilities: **October 31, 2023**

- Date by which Interconnection Customer shall have land at Point of Interconnection surveyed and marked: **October 31, 2023**

- Date by which Transmission Provider will file with FERC to request approval for non-project use of project land under its FERC hydroelectric license for the Pelton-Round Butte Project, FERC No. 2030: **120 days following: (1) results of Interconnection Customer's completed environmental and cultural resources studies to support the request to FERC for approval for non-project use, along with all required federal, state, and local environmental permits; and (2) support for the FERC application in writing from the Joint Licensee of the Pelton-Round Butte Project, the Confederated Tribes of Warm Springs. Will be complete no later than December 30, 2023 provided (1) and (2) are completed**

- Outage(s) approved/scheduled for connection of FSC and/or POI substation: **Upon approval of the 90% engineering design packages for respective facilities.†**

  † While a single outage may be requested, the physical interconnection of the respective facilities may require separate, coordinated outages. Transmission Provider will work to accommodate outages within the requested window(s), and may at its discretion, adjust timelines to accommodate regulatory requirements.

- Date by which Interconnection Customer shall provide to Transmission Provider a copy of all required permits and easements: **April 15, 2024**

- Date by which, per standard Transmission Provider practice, Interconnection Customer shall provide to Transmission Provider a fully executed and acknowledged warranty deed from landowner conveying free and clear title of the new Point of Interconnection substation site to Transmission Provider, together with legal and practical access to the same: **June 14, 2024**

- Date by which Interconnection Customer shall provide written authorization to Transmission Provider to proceed with construction: **June 2, 2024**

- *Approximate date by which FERC to deliver decision to Transmission Provider filed request for non-project use of project land under its FERC hydroelectric license for the Pelton-Round Butte Project, FERC No. 2030 in order to begin construction on the land:* ***December 30, 2024***

- Transmission Provider's Interconnection Facilities (as built by the Interconnection Customer) In-Service Date: **October 31, 2025*+**

* Interconnection Customer is responsible for back feed power and station service arrangements prior to and after In-Service Date. Any power flows to or from the Generating Facility at the Point of Interconnection that are due to station service at the Generating Facility or any other service shall be metered and accounted for under separate service arrangements rather than under this LGIA. Station Service power must be arranged for and acquired from the local retail electricity service provider as the Generating Facility is located outside of PGE's retail service territory. The metering of any power flows to or from the Generating Facility at the Point of Interconnection shall be revenue quality metering.

\+ As indicated in the Facilities Study, there are many factors outside of the Transmission Provider's control that could extend the time required for completing construction of the facilities discussed above. These factors include, but are not limited to, unexpected delays in the permitting process, required environmental and cultural resources reviews, FERC hydro license approval for the non-project use of project land, the WECC Path Rating Process, long lead times for obtaining electrical equipment, shortages of qualified workers, the effects of the COVID-19 pandemic, contractual negotiations with third parties, and inclement weather conditions.

Additionally, because the line to which the Interconnection Customer seeks to interconnect is part of the Pelton-Round Butte Project, FERC No. 2030, which is jointly owned by Transmission Provider and the Confederated Tribes of Warm Springs, Transmission Provider notes that the Confederated Tribes of Warm Springs could take positions in any legal or regulatory proceeding relating to this LGIA that could result in delays and/or denials in efforts to obtain necessary approvals.

- Initial Synchronization Date: **November 30, 2025*****

  ** Interconnection Customer must request Initial Synchronization from Transmission Provider, and the Transmission Provider must approve, in writing before Initial Synchronization can occur.

- Commercial Operation Date: **December 31, 2025** ***+++ †††

  *** Interconnection Customer must request Commercial Operation from Transmission Provider in writing

  +++ Transmission Provider must provide written approval for Commercial Operation

  ††† Transmission Provider agrees to this Commercial Operations Date, and preceding dates to support this date. However, Transmission Provider specifically disclaims any responsibility to Interconnection Customer for ability to satisfy terms of any other agreement entered into by Interconnection Customer for power sales, transmission, or any other aspect not directly

addressed by this Qualifying Facility Large Generator Interconnection Agreement.

Construction Option: Construction of all Transmission Provider's Network Upgrades and Interconnection Facilities shall be done in accordance with Article 5.1.3 of this LGIA, as the Interconnection Customer elects to exercise the option to build the Transmission Provider's Interconnection Facilities and Stand-Alone Network Upgrades identified in Appendix A .

EXHIBIT 4

Appendix C to QF-LGIA - Interconnection Details (Revision 1)

The Interconnection Customer shall comply with *PGE's Facility Connection Requirements for Generation Resources* located on PGE's OASIS website.

PGE's Facility Connection Requirements for Generation Resources are incorporated herein by reference and apply to all interconnections regardless of electrical source type, including but not limited to, synchronous generation facilities, induction generation facilities, and inverter-based facilities (i.e. solar photovoltaic or battery energy storage facilities).

I. Project Details

- Project Name – Madras Solar
- Size – 63 MW
- Generating Facility Details – Solar Photovoltaic
- Generation Type – Solar Photovoltaic
- Interconnection Type – NRIS
- Location – New 230 kV substation approximately 4.9 miles north of PGE's Round Butte Substation near Madras, Oregon
- Power Factor – .95 leading to .95 lagging of full rated output at the Point of Interconnection
- Point of Interconnection – New 230 kV substation approximately 4.9 miles north of PGE's Round Butte Substation near Madras, Oregon
- Point of Change of Ownership – The last dead-end structure prior to entering the new POI substation.
- Generating Facility will be IEEE1547 and UL1741 compliant prior to energization.

Standard Operational Requirements

a) Reliability Standards

"Applicable Reliability Standards," as defined in Article 1 of the QF-LGIA, include the requirements and guidelines of the Applicable Reliability Council, including the regional reliability standards promulgated by the Western Electricity Coordinating Council (WECC), such as WECC's Automatic Voltage Regulators (AVR) standard.

b) Notice of Change in Generation and/or Charging Level

Whenever the net generation of the Generating Facility changes due to a mechanical event or equipment failure by an amount greater than or equal to 5 megawatts within the scheduling hour, the Interconnection Customer must notify the Transmission Provider immediately. Interconnection Customer must provide such notice for both planned and unplanned changes in generation levels. The required notice may be given by electronic communication (such as email) or by telephone.

Generation level will be limited and shall not exceed 65 MW at the Point of Interconnection at any time.

PGE's Balancing Authority Operator (BAO), Phone: (503) 464-8560.

c) Notice of Change of Generation On-Line/Off-Line Status

Interconnection Customer must notify PGE's BAO at the phone number provided above as to when the generation is going off-line and as to when the generation will be coming on-line. Interconnection Customer must also provide reasons for either event. At least 48 hours advance notice is required for planned events . For unplanned events, Interconnection Customer must provide notice as soon as possible.

d) Voltage and Frequency Response

Each interconnected unit of the Generating Facility shall be capable, at all times (including during an electric disturbance), of continuous operation at 0.95 to 1.05 per unit (pu) voltage of nominal voltage, as measured at the Point of Interconnection, and shall be kept online and in operation during frequency deviations beyond the range of 59.5 to 60.5 Hz to the extent required by the Applicable Reliability Standards.

e) Reactive Power

In addition to the requirements in Section 9.5.1, Power Factor Design Criteria, each interconnected unit of the Generating Facility shall produce or absorb Reactive Power between 0.95 leading and 0.95 lagging power factor for steady state conditions to meet voltage schedules specified by PGE's BAO. Reactive Power will be measured at the Point of Interconnection for both synchronous and non-synchronous generators. Each interconnected unit of the Generating Facility also shall produce or absorb Reactive Power up to the temporary overload capability of the interconnected unit of the Generating Facility during electric disturbances. An interconnected unit of the Generating Facility may satisfy its Reactive Power and voltage requirements either by its operation or by using separate devices.

f) Disconnection, Switching, and Clearance Procedures

Whenever disconnecting an interconnected unit of the Generating Facility from Transmission Provider's Transmission System, the Interconnection Customer shall perform such disconnection in accordance with Good Utility Practice and in compliance with Transmission Provider's transmission facility clearance procedures, as may be amended, reasonably and without discrimination to the Interconnection Customer, by Transmission Operator in its sole discretion from time to time. Any switching on the Transmission Provider's Transmission System shall be performed by personnel on the Transmission Provider's certified switch person list. If Transmission Provider amends its transmission facility clearance procedures, it will notify the Interconnection Customer as soon as practicable thereafter and provide to the Interconnection Customer a copy of the new procedures.

g) Organized Market Requirements

The Transmission Provider is a participant in the California ISO Energy Imbalance Market or other organized market ("Organized Market"). The Generating Facility is interconnected to Transmission Provider's Transmission System. Interconnection Customer shall comply, and ensure that the Generating Facility complies, with any applicable requirements, from time to time in effect, of the tariff(s) and business practice(s) of the Transmission Provider, as posted on the OASIS, specifically including the Organized Market requirements of the Transmission Provider.

h) Automatic Data Transfer

Throughout the term of this QF-LGIA, Interconnection Customer shall provide the data specified below by automatic data transfer to the Control Center of the Transmission Provider:

Status of Interconnection Customer's 230 kV breaker at Interconnection Customer's Interconnection Substation and, if required by the Transmission Provider, the 34.5 kV feeder breakers at the Interconnection Customer's Collector Substation;

MW and MVAR at each inverter feeder breaker and total MW and MVAR for the Generating Facility;

Status of each breaker or switch in supplemental capacitor banks (if included);

Total MVAR from each capacitor bank.

i) Additional Data

Interconnection Customer shall, at its sole expense, provide any additional Generating Facility data, forecasts, or other information reasonably required and necessary for Transmission Provider to operate its Transmission System in accordance with Good Utility Practice and any other applicable operating requirements.

j) O&M Costs Assigned to Interconnection Customer

Consistent with this QF-LGIA, including, without limitation, Article 10.5 hereof, Interconnection Customer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of Transmission Provider's Interconnection Facilities (such expenses including overheads are sometimes referred to in this Appendix C as "O&M Costs").

O&M Costs include for example all reasonable costs incurred for Transmission Provider's operations and maintenance activities associated with Transmission Provider's Interconnection Facilities , as well as any modifications needed for any Transmission Provider to obtain billing and meter data, energy management system displays, plant information database information, schedule data and any additional plant information that is required by the Reliability Coordinator or an Organized Market, as well as any additional project-related information that is needed at any Transmission Provider's control center for operational and reliability purposes.

Transmission Provider shall invoice Interconnection Customer for O&M Costs. Interconnection Customer shall submit payment for O&M Costs to Transmission Provider per the instructions indicated on each invoice within thirty (30) days following receipt of invoice.

Appendix D to QF-LGIA - Security Arrangements Details

Infrastructure security of Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day Transmission System reliability and operational security. The OPUC and FERC will expect all Transmission Providers, market participants, and Interconnection Customers interconnected to the Transmission System to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

EXHIBIT 4

Appendix F to QF-LGIA - Addresses for Delivery of Notices and Billings (Revision 1)

Notices:

Transmission Provider:

Portland General Electric Company, Transmission Services
Manager, Transmission, Interconnection, and Contract Services
121 SW Salmon St., IOC2215
Portland, OR 97214
Email: transmissionprovider@pgn.com
Telephone: (503) 464-7945

Interconnection Customer:

Madras Solar PV1, LLC
c/o Ecoplexus, Inc.
ATTN: John Gorman
600 Park Offices Drive, Suite 285, Durham, NC 27709
Durham, NC 27709
Email: johng@ecoplexus.com & legalnotices@ecoplexus.com
Telephone: (415) 626-1802

Billings and Payments:

Transmission Provider:

Portland General Electric Company, Transmission Services
Manager, Transmission, Interconnection, and Contract Services
121 SW Salmon St., IOC2215
Portland, OR 97214
Email: TransmissionProvider@pgn.com
Telephone: (503) 464-7945

Interconnection Customer:

Madras Solar PV1, LLC
c/o Ecoplexus, Inc.
ATTN: John Gorman
PO Box 2265
Mansfield, TX 76063
Email: johng@ecoplexus.com and accountspayable@ecoplexus.com
Telephone: (415) 240-4751