



Pacific Power
Rocky Mountain Power
825 NE Multnomah Street
Portland, OR 97232

November 25, 2008

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Public Utility Commission of Oregon
550 Capitol Street NE, Suite 215
P. O. Box 2148
Salem, OR 97308-2148

Attention: Vikie Bailey-Goggins, Administrator
Regulatory and Technical Support

Re: Docket UM 926: Application for Approval of the RESIDENTIAL PURCHASE AND SALE AGREEMENT executed by the BONNEVILLE POWER ADMINISTRATION and PACIFICORP for the Payment of Residential Exchange Program Benefits for Fiscal Years 2012 through 2028 and the NEW RESOURCE FIRM POWER BLOCK POWER SALES AGREEMENT executed by the BONNEVILLE POWER ADMINISTRATION and PACIFICORP.

Dear Sir or Madam:

Pursuant to ORS 757.663, PacifiCorp d/b/a Pacific Power (“PacifiCorp” or “the Company”) hereby requests Public Utility Commission of Oregon (the “Commission” or “OPUC”) approval for PacifiCorp to execute a Residential Purchase and Sale Agreement (“RPSA”) for the payment of Residential Exchange Program (“REP”) benefits during Fiscal Years 2012 through 2028 and a New Resource Firm Power Block Power Sales Agreement (“NR Block Agreement”), between the Bonneville Power Administration (“BPA”) and PacifiCorp, BPA proposed Contract Nos. 08PB-13207, attached as Exhibit A to this Application, and 08PB-13206, attached as Exhibit B to this Application, respectively.

While PacifiCorp is asking the Commission to order PacifiCorp to execute the RPSA and NR Block Agreement, PacifiCorp does not believe that the specific level of REP benefits BPA currently calculates for PacifiCorp customers is sufficient and PacifiCorp fully expects to exercise all rights, protected in these contracts, to challenge BPA’s legal authority and ratemaking decisions with respect to both benefit levels and PacifiCorp’s Lookback Amount. PacifiCorp’s recommendation reflects PacifiCorp’s desire to make the best of the situation, but in no way does justice to the frustration PacifiCorp feels over the region’s failure – thus far – to provide PacifiCorp’s customers with a fair and equitable share of the benefits from BPA’s hydroelectric facilities.

These contracts are substantially similar to the RPSA and NR Block Agreement for 2009 through 2011, which the Commission recently ordered PacifiCorp to sign. Order No. 08-479

(September 24, 2008). As part of its Long Term Regional Dialogue, BPA decided to offer all customers new 20-year contracts. These agreements provide PacifiCorp with long term access to residential exchange benefits. The agreements do not establish the level of benefits or otherwise limit PacifiCorp's right to challenge BPA decisions that determine the level of benefits. These were the principal reasons the Commission ordered PacifiCorp to sign the 2009-2011 RPSA and they apply with equal force to this RPSA. Order No. 08-479 at 1.

PacifiCorp recommends that the Commission issue an order requiring PacifiCorp to sign the proposed RPSA and NR Block Agreement. PacifiCorp will be available for questions at the public meeting scheduled for December 1, 2008.

I. Residential Purchase and Sale Agreement

The proposed RPSA provides the contractual terms under which PacifiCorp's small farm and residential customers will receive benefits under the REP with BPA. The REP is an exchange of power, with BPA purchasing power from an exchanging utility at the utility's average system cost ("ASC") and the exchanging utility purchasing power from BPA at the PF Exchange rate. However, it has been BPA's practice that no actual power sales have taken place under the REP. Instead, the REP benefits are provided as monetary benefits that pass to PacifiCorp's residential and small farm customers in the form of a rate credit.

The formula for determining the level of REP benefits is established by statute and is set forth in the RPSA. The amount of REP benefits is based on three factors: the PF Exchange rate (which BPA determines in its power rate proceedings), PacifiCorp's ASC for transmission and generation of power, and PacifiCorp's eligible residential and small farm load. The level of REP benefits is determined by the difference between the PF Exchange rate and PacifiCorp's ASC, multiplied by the eligible load.

Actual Residential Exchange Program benefits will be established in future BPA 7(i) processes that are anticipated to begin with the WP-12 wholesale power rate case ("WP-12") which will establish a PF Exchange rate for FY 2012 (October 1, 2011, through September 30, 2012). In addition, PacifiCorp will continue to make required Appendix 1 filings per the 2008 Average System Cost Methodology which will be used in the determination of future exchange benefits. PacifiCorp has actively participated in BPA's WP-07 Supplemental wholesale power rate case ("WP-07S"), the ASC Methodology proceeding, and all other BPA proceedings, and will continue to be actively involved in future proceedings that affect the level of REP benefits our customers receive. We recognize the importance of these benefits for our customers and will continue to advocate for BPA rates, policies and decisions that provide our customers with a fair and equitable share of the benefits of the federal hydro system.

A. Term

The term of the RPSA will commence on October 1, 2011, and will end on September 30, 2028, unless terminated sooner. RPSA, §1.

B. In Lieu Transactions

Upon written notice to PacifiCorp, BPA may “in lieu” of purchasing power offered by PacifiCorp acquire an equivalent amount of electric power from other sources to replace power

sold by BPA to the utility as part of the exchange. RPSA, §7. However, the cost of the “in lieu” power must be less than the utility’s ASC. The result is a reduction in REP benefits by the difference between the in lieu price and PacifiCorp’s ASC, multiplied by the amount of “in lieu” power. Under the proposed RPSA, BPA may not initiate an in-lieu transaction until it has adopted an In-Lieu Power Policy following appropriate notice and comment and the issuance of a final record of decision. RPSA, §7.2.

C. Balancing Account

If PacifiCorp’s ASC is less than the applicable PF Exchange rate, the payment that would be owed to BPA in that circumstance is tracked and added to the balancing account. RPSA, §12.2. While there is an account balance, BPA will distribute no REP benefits but will first use REP benefits otherwise due to eliminate any balance in the account. PacifiCorp does not expect that this provision will adversely affect PacifiCorp’s customers given that PacifiCorp’s projected ASC is well above the expected PF Exchange rate.

D. Suspension and Termination

PacifiCorp may terminate the RPSA if the operation of section 7(b)(3) of the Northwest Power Act causes the PF Exchange rate charged to PacifiCorp to exceed PacifiCorp's ASC. RPSA, §11.1.1. If PacifiCorp terminates the RPSA, it is not permitted to receive REP benefits until the next BPA rate period. BPA currently intends to use two-year rate period.

PacifiCorp may suspend performance under the RPSA for any reason whatsoever. However, if PacifiCorp suspends its performance, then it is not entitled to receive REP until the end of the term (i.e., October 1, 2028).

E. Adjustments to Monetary Payments

In the WP-07S proceeding, BPA determined for each investor-owned utility, including PacifiCorp, the amount of “overpayments” of REP benefits from October 1, 2001, through September 30, 2008. During this period Investor-Owned Utilities (“IOUs”) received REP settlement benefits under settlement agreements, which the Ninth Circuit Court of Appeals determined in 2007 exceeded BPA’s authority and were not supported by the record compiled by BPA at the time. The RPSA provides that monetary payments of REP benefits may be adjusted to account for such overpayments (called “Lookback Amounts”) in the past. In the final record of decision in WP-07S proceeding, BPA has proposed to recover (through offsets against future REP benefits otherwise due) each IOU’s Lookback Amount within seven years where possible as long as the net benefits paid are at least equal to 50 percent of the total benefits calculated prior to the application of the Lookback Amounts. PacifiCorp and other IOUs have strenuously objected to this approach and argued for a 20-year recovery period to coincide with the Regional Dialogue Contracts.

PacifiCorp has vigorously argued against BPA's authority to assess such Lookback Amounts and its ratemaking determination of such amounts. The RPSA has a reservation of rights clause that provides that, by entering into the RPSA, neither BPA nor PacifiCorp waive any rights, arguments, or claims, and PacifiCorp may pursue all available courses of action to work for a more equitable level of benefits of the federal hydro system for our customers.

II. New Resource Firm Power Block Power Sales Agreement

The NR Block Agreement is proposed to be effective for the same term as the RPSA (October 1, 2012, through September 30, 2028) to meet requests for power sales contracts made by IOUs pursuant to 5(b) of the Northwest Power Act. Section 5(b) provides that whenever requested, BPA shall offer to sell to a requesting IOU power to meet its firm power load net of the utility's own resources used to serve such load. Power that BPA sells to an IOU under section 5(b) is priced at BPA's new resource firm power rate. The non-price terms of the NR Block Agreement are similar to the terms of the Firm Block Power Sales Agreement, which PacifiCorp executed in connection with the 2000 Settlement Agreement and the 2009-2011 NR Block Agreement with BPA. PacifiCorp does not currently anticipate purchasing BPA power under the NR Block Agreement.

III. PacifiCorp's Recommendation

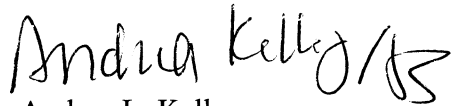
As the Commission is aware, PacifiCorp does not agree with many of the decisions of the Administrator in BPA's Final ROD. For instance, the reduction in the repayment period reduced benefits further for our customers. However, PacifiCorp respectfully requests that the Commission order PacifiCorp to execute the proposed RPSA and NR Block Agreement. The signing of these agreements is consistent with PacifiCorp's request to sign the 2009 through 2011 RPSA and NR Block Agreements that the Commission approved on September 24, 2008. While the exact level of REP benefits for the Fiscal Years 2012 through 2028 are unknown at this time, PacifiCorp expects that its residential and small farm customers will receive some level of benefits under the REP.

The terms of the RPSA do not adversely affect PacifiCorp's ability to challenge BPA's legal authority and ratemaking decisions with respect to PacifiCorp's Lookback Amount. The RPSA will permit PacifiCorp's customers to continue to receive REP benefits in the future. The NR Block Agreement also may provide benefits to PacifiCorp's customers. While PacifiCorp currently does not plan to purchase power from BPA at the NR rate, it may be prudent for PacifiCorp to execute the proposed NR Block Agreement. Signing the contract will permit PacifiCorp to purchase power from BPA under Section 5(b) in the future if the NR rate warrants such purchases. PacifiCorp may elect to purchase power under the NR Block Agreement but is not required to do so. The NR Block Agreement is also helpful in the determination of the 7(b)(2) rate test in providing evidence on the commitment to use Mid-Columbia hydro resources to serve PacifiCorp's load, which tends to increase the level of REP benefits for PacifiCorp and other investor-owned utilities.

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For the reasons stated above, PacifiCorp requests that the Commission order PacifiCorp to execute the RPSA and NR Block Agreement.

Very truly yours,

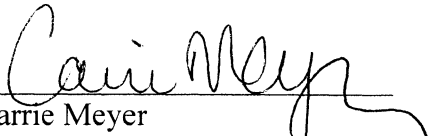
A handwritten signature in black ink that reads "Andrea Kelly" followed by a stylized flourish.

Andrea L. Kelly
Vice President, Regulation

Cc: Service List UM-926

CERTIFICATE OF SERVICE

I certify that I have cause to be served the foregoing document in OPUC Docket No. UM 926 by electronic mail and first class mail to the parties on the attached service list unless paper service has been waived.
DATED this 25th day of November 2008.


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Coordinator, Administrative Services

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RESIDENTIAL PURCHASE AND SALE AGREEMENT

executed by the

BONNEVILLE POWER ADMINISTRATION

and

PACIFICORP

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This RESIDENTIAL PURCHASE AND SALE AGREEMENT (Agreement) is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA), and PACIFICORP (PacifiCorp), hereinafter individually referred to as “Party” and collectively referred to as the "Parties." PacifiCorp is an investor-owned utility organized and authorized under the laws of the State of Oregon to purchase and distribute electric power to serve retail consumers from its distribution system within its service area.

RECITALS

Section 5(c) of the Northwest Power Act provides that a Pacific Northwest Regional electric utility may offer to sell electric power to BPA, and BPA shall purchase such electric power at the Average System Cost of that utility's resources, and in exchange BPA shall offer to sell in return an equivalent amount of electric power to such utility, and such utility shall purchase such electric power at the PF Exchange rate. The cost benefits of such purchase and exchange sale attributable to a utility's residential load within a state shall be passed directly through to that utility's residential load within such state.

The Parties agree:

1. **TERM**

This Agreement shall take effect on the latter of (1) the date signed by the Parties, or (2) if required, upon acceptance for filing of this Agreement by the Federal Energy Regulatory Commission without change or condition unacceptable to either Party, and it shall terminate on September 30, 2028, unless terminated earlier pursuant to section 11 below. Performance by the Parties of their obligations under this Agreement shall commence on October 1, 2011. Upon termination of this Agreement, all obligations incurred hereunder shall be preserved until satisfied.

2. **DEFINITIONS**

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

2.1 "Appendix 1" means the electronic form on which PacifiCorp reports its Contract System Costs and other necessary data to BPA for the calculation of PacifiCorp's Base Period ASC pursuant to the ASC Methodology.

2.2 "Average System Cost" or "ASC" means the rate charged by PacifiCorp to BPA for BPA's purchase of power from PacifiCorp under section 5(c) of the Northwest Power Act for each Exchange Period and is the quotient obtained by dividing Contract System Costs by Contract System Load, all in accordance with the ASC Methodology.

2.3 "ASC Methodology" means the methodology, as may be amended or superseded, used to determine ASC, as developed by BPA pursuant to section 5(c)(7) of the Northwest Power Act. Exhibit C contains a website link to the current version of the ASC Methodology. This Agreement is subject to the ASC Methodology, but such ASC Methodology is not incorporated as part of this Agreement.

2.4 "Balancing Account" or "BA" means an account maintained by BPA comprised of amounts, if any, carried over from Contract No. DE-MS79-81BP90607, by and between PacifiCorp and BPA, and Contract

No. 08PB-11970 by and between PacifiCorp and BPA, plus any additional amounts accrued pursuant to section 12 of this Agreement.

- 2.5 “Base Period” means the calendar year of the most recent FERC Form 1 data at the commencement of the ASC review period.
- 2.6 “Base Period ASC” means the ASC determined in the Review Period using PacifiCorp’s Base Period data, all in accordance with the ASC Methodology.
- 2.7 “Business Day(s)” means every Monday through Friday except Federal holidays.
- 2.8 “Contract System Costs” means PacifiCorp’s costs for production and transmission resources, including power purchases and conservation measures, which costs are includable in and subject to the provisions of Appendix 1, all in accordance with the ASC Methodology. Under no circumstances shall Contract System Costs include costs excluded from the ASC by section 5(c)(7) of the Northwest Power Act.
- 2.9 “Contract System Load” means: (1) the total Regional retail load included in the Form 1, or (2) for a consumer-owned utility (preference customer), the total Regional retail load from the most recent annual independently audited financial statement, as either may be adjusted pursuant to the ASC Methodology, all in accordance with the ASC Methodology.
- 2.10 “Due Date” shall have the meaning as described in section 8.2.
- 2.11 “Effective Date” means the effective date of this Agreement, as determined pursuant to section 1 above.
- 2.12 “Exchange Period” means the period during which PacifiCorp’s ASC is effective for the calculation of PacifiCorp’s benefits under this Agreement. Each Exchange Period shall be the period of time concurrent with the duration of each BPA wholesale power rate period.
- 2.13 “Fiscal Year” or “FY” means the period beginning each October 1 and ending the following September 30.
- 2.14 “Form 1” means the annual filing submitted to the Federal Energy Regulatory Commission required by 18 CFR §141.1, as specified in the ASC Methodology.
- 2.15 “In-Lieu PF Power” means firm power that is sold by BPA to PacifiCorp in an in-lieu transaction at the applicable Priority Firm Power Exchange Rate, or its successor.
- 2.16 “In-Lieu Power” means firm power acquired by BPA from a source(s) other than PacifiCorp at a cost less than PacifiCorp’s ASC, as provided in section 5(c)(5) of the Northwest Power Act. The provisions for acquisition and

delivery of In-Lieu Power shall be provided in a policy developed by BPA after this Agreement is executed.

- 2.17 “In-Lieu Power Policy” means a policy to be developed by BPA that will contain provisions for: (1) the acquisition and purchase of In-Lieu Power by BPA, and (2) the delivery and sale of In-Lieu PF Power to PacifiCorp.
- 2.18 “Issue Date” shall have the meaning as described in section 8.2.
- 2.19 “Jurisdiction” means the service territory of PacifiCorp within which a particular Regulatory Body has authority to approve PacifiCorp’s retail rates. Jurisdictions must be within the Region.
- 2.20 “New Large Single Load” or “NLSL” has the meaning specified in section 3(13) of the Northwest Power Act and in BPA’s NLSL Policy.
- 2.21 “Northwest Power Act” means the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §839, Public Law No. 96-501, as amended.
- 2.22 “Region” or “Regional” means the Pacific Northwest as defined in section 3(14) of the Northwest Power Act.
- 2.23 “Regulatory Body” means a state commission or consumer-owned utility governing body, or other entity authorized to establish retail electric rates in a Jurisdiction.
- 2.24 “Residential Exchange Program” means the program implemented under this Agreement and established by section 5(c) of the Northwest Power Act.
- 2.25 “Residential Load” means the Regional residential load to which PacifiCorp sells power, as that residential load is defined in the Northwest Power Act and as further defined in Exhibit A.
- 2.26 “Residential Load Eligible for Monetary Benefits” means the monthly amounts of Residential Load determined pursuant to Exhibit A, less:
- (a) any amounts of Residential Load with respect to which BPA has issued a notice of the election, pursuant to section 7.3 below, to acquire In-Lieu Power and PacifiCorp has elected to either take physical delivery of In-Lieu PF Power or forego exchange benefits corresponding to the amount of In-Lieu Power; or
 - (b) any amounts of Residential Load with respect to which BPA has issued a notice of the election, pursuant to section 7.3 below, to acquire In-Lieu Power and PacifiCorp has elected to suspend its sale and purchase under sections 5 and 6 of this Agreement, for the duration of the time specified in the in-lieu notice.

- 2.27 “Review Period” means the period of time during which PacifiCorp’s Appendix 1 is under review by BPA. The Review Period begins on June 1 and ends on or about November 15 of the Fiscal Year prior to the Fiscal Year BPA implements a change in wholesale power rates.
- 2.28 “Third Party Transmission Provider” means a transmission provider other than BPA that delivers power to PacifiCorp.
- 2.29 “Transmission Component of ASC” means the portion of PacifiCorp’s ASC attributable to transmission, as described in the In-Lieu Power Policy.
- 2.30 “Uncontrollable Force” shall have the meaning specified in section 14.

3. APPLICABLE PF EXCHANGE RATE

Purchases by PacifiCorp under this Agreement are pursuant to the applicable Priority Firm Power Exchange (PF Exchange) rate and applicable GRSPs, or their successors, established by BPA in a proceeding pursuant to section 7(i) of the Northwest Power Act, or its successor. Sections 5 and 6 below establish purchases subject to the applicable PF Exchange rate schedule.

4. ESTABLISHMENT OF ASC TO ACTIVATE PARTICIPATION

The first Exchange Period during which PacifiCorp may activate its participation under this Agreement shall commence on October 1, 2011. PacifiCorp may activate its participation under this Agreement by filing an initial Appendix 1 for the initial Exchange Period that it has selected. Once PacifiCorp files an initial Appendix 1, PacifiCorp shall continue to file a new Appendix 1 for each subsequent Exchange Period, unless and until PacifiCorp elects to terminate or suspend this Agreement pursuant to section 11 below. Upon filing an Appendix 1 for an Exchange Period, PacifiCorp shall commence invoicing for Residential Load Eligible for Monetary Benefits, pursuant to section 8.1 below, in the month following the first full month of such Exchange Period.

5. OFFER BY PACIFICORP AND PURCHASE BY BPA

Beginning with the first month of the initial Exchange Period established under section 4 above, PacifiCorp shall offer and BPA shall purchase each month an amount of electric power up to or equal to the Residential Load Eligible for Monetary Benefits.

The rate for such power sale to BPA shall be equal to PacifiCorp’s ASC, as determined by BPA using the ASC Methodology. PacifiCorp may only sell an amount of electric power under this section 5 that is up to or equivalent to the Residential Load Eligible for Monetary Benefits that PacifiCorp is authorized under state law or by order of the applicable state regulatory authority to serve.

6. OFFER BY BPA AND PURCHASE BY PACIFICORP

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

Benefits that PacifiCorp offers and BPA purchases each month pursuant to section 5.

The rate for such power sale to PacifiCorp shall be equal to BPA's applicable PF Exchange rate, as established pursuant to section 3 above.

7. IN-LIEU TRANSACTIONS

7.1 BPA's Right to In-Lieu

In lieu of purchasing all or a portion of the electric power offered to BPA pursuant to section 5 by PacifiCorp at a rate equal to its ASC, BPA may upon prior written notice acquire or make arrangements to acquire In-Lieu Power if the expected cost of such power is less than PacifiCorp's ASC(s).

If the expected cost of In-Lieu Power is less than the applicable PF Exchange Rate, then PacifiCorp may upon prior written notice suspend its sale and purchase under sections 5 and 6 of this Agreement for all or a portion of the amount of Residential Load Eligible for Monetary Benefits that BPA proposes to serve with In-Lieu PF Power, for the duration of time specified in the in-lieu notice. PacifiCorp's election under this section shall be based on all or a percentage portion of PacifiCorp's Residential Load Eligible for Monetary Benefits that BPA has specified in its in-lieu notice. Amounts suspended under this section 7.1 shall not be added to PacifiCorp's balancing account under section 12.

7.2 In-Lieu Power Policy

The terms and conditions of an in-lieu transaction, including the above-referenced notice provisions, the source(s) of In-Lieu Power, the amount of In-Lieu Power, the shape of In-Lieu Power, the expected cost of such In-Lieu Power, and the term of the In-Lieu PF Power sale, shall be subject to BPA's then-effective In-Lieu Power Policy; *provided, however*, that each In-Lieu Power Policy shall conform to this section 7. BPA may not initiate an in-lieu transaction until it has adopted an In-Lieu Power Policy following notice and comment and the issuance of a final record of decision.

The Parties agree to work in good faith to amend this Agreement if, when, and as necessary to implement the then-effective In-Lieu Power Policy. PacifiCorp acknowledges that in-lieu transactions are intended to lower the cost of the Residential Exchange Program to BPA, and agrees that it will not unreasonably withhold its consent to any amendment to this Agreement proposed by BPA.

7.3 In-Lieu Notice(s)

BPA shall, in each written notice of an in-lieu transaction, provide the following information, which shall include, but is not limited to: (1) the source(s) of In-Lieu Power, (2) the amount of In-Lieu Power, (3) the shape of In-Lieu Power, (4) the expected cost of such In-Lieu Power, and (5) the term of the In-Lieu PF Power sale. BPA shall keep PacifiCorp advised insofar as is

practicable of BPA's plans to provide notice to PacifiCorp of BPA's election to acquire In-Lieu Power.

7.4 **In-Lieu Transaction Implementation Mechanisms**

The mechanisms by which in-lieu transactions are implemented, whether by the physical delivery of In-Lieu PF Power, the monetization of the value of such deliveries, some combination thereof, or some other mechanism, and all issues related thereto, shall be developed by and subject to the then-effective In-Lieu Power Policy.

8. **INVOICING, BILLING, AND PAYMENT**

8.1 **Invoicing for Residential Load Eligible for Monetary Benefits**

8.1.1 PacifiCorp shall submit to BPA each month an accounting invoice that documents: (1) the amount of Residential Load Eligible for Monetary Benefits that PacifiCorp has elected to exchange pursuant to sections 5 and 6 above, (2) PacifiCorp's ASC, (3) PacifiCorp's applicable PF Exchange rate, (4) any adjustment pursuant to section 20, and (5) any adjustment pursuant to section 12. Such documentation shall include, but is not limited to, the kilowatt-hours of energy which PacifiCorp billed to the Residential Load Eligible for Monetary Benefits during the previous month. Each such invoice shall be subject to adjustment pursuant to section 9 below.

8.1.2 Within 30 days following the receipt of each monthly invoice from PacifiCorp, and subject to section 9 below, BPA shall verify the invoice and pay such invoice electronically in accordance with instructions on each such invoice.

8.2 **Billing and Payment for In-Lieu PF Power**

In the event monthly amounts of In-Lieu PF Power are physically delivered to PacifiCorp, amounts billed under this Agreement shall be the monthly by BPA to PacifiCorp pursuant to section 7 above.

8.2.1 **Billing**

BPA shall bill PacifiCorp monthly for all products and services provided during the preceding month(s). BPA may send PacifiCorp an estimated bill followed by a final bill. The Issue Date is the date BPA electronically sends the bill to PacifiCorp. If electronic transmittal of the entire bill is not practical, then BPA shall transmit a summary electronically, and send the entire bill by United States mail.

8.2.2 **Payment**

PacifiCorp shall pay all bills electronically in accordance with instructions on the bill. Payment of all bills, whether estimated or final, must be received by the 20th day after the Issue Date of the bill (Due Date). If the 20th day is a Saturday, Sunday, or federal holiday, then the Due Date is the next Business Day.

If PacifiCorp has made payment on an estimated bill then:

- (1) if the amount of the final bill exceeds the amount of the estimated bill, then PacifiCorp shall pay BPA the difference between the estimated bill and final bill by the final bill's Due Date; or
- (2) if the amount of the final bill is less than the amount of the estimated bill, then BPA shall pay PacifiCorp the difference between the estimated bill and final bill by the 20th day after the final bill's Issue Date. If the 20th day is a Saturday, Sunday, or federal holiday, then BPA shall pay the difference by the next Business Day.

8.2.3 **Late Payments**

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

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

shall be applied each day to any unpaid balance.

8.2.4 **Disputed Bills**

8.2.4.1 If PacifiCorp disputes any portion of a charge or credit on PacifiCorp's estimated or final bills, PacifiCorp shall provide written notice to BPA with a copy of the bill noting the disputed amounts. Notwithstanding whether any portion of the bill is in dispute, PacifiCorp shall pay the entire bill by the Due Date. This section 8.2.4.1 does not allow PacifiCorp to challenge the validity of any BPA rate.

8.2.4.2 Unpaid amounts on a bill (including both disputed and undisputed amounts) are subject to the late payment charges provided above. Notice of a disputed charge on a bill does not constitute BPA's agreement that a valid claim under contract law has been stated.

8.2.4.3 If the Parties agree, or if after a final determination of a dispute pursuant to section 15, PacifiCorp is entitled to a refund of any portion of the disputed amount, then BPA shall make such refund with simple interest computed from the date of receipt of the disputed payment to the date the refund is made. The daily interest rate shall equal the Prime Rate

(as reported in the Wall Street Journal or successor publication in the first issue published during the month in which payment was due) divided by 365.

9. ACCOUNTING, REVIEW, AND BUDGETING

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

- (1) PacifiCorp's ASC as determined pursuant to the ASC Methodology;
- (2) identification of the consumers that comprise PacifiCorp's Residential Load;
- (3) the amount of Residential Load Eligible for Monetary Benefits invoiced to BPA; and
- (4) evidence that the benefits received by PacifiCorp have been passed through to consumers that comprise PacifiCorp's Residential Load Eligible for Monetary Benefits, as provided for in section 10 below.

At BPA's expense, BPA or its agent may, from time to time, review or inspect, consistent with the provisions of section 19.1 of this Agreement, PacifiCorp's records, accounts, and related documents pertaining to this Agreement. BPA's agent shall be subject to approval by PacifiCorp; such approval shall not be unreasonably withheld. PacifiCorp shall fully cooperate in good faith with any such reviews or inspections. BPA retains the right to take action consistent with the results of such reviews or inspections to require the pass-through of such benefits to Residential Load Eligible for Monetary Benefits.

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

If BPA determines that PacifiCorp has received monetary benefits for ineligible load, including an NLSL, or that other errors have occurred in implementing this Agreement that result in an overpayment, then any such overpayment shall be returned to BPA within 30 days of BPA's determination, or BPA may adjust future monetary benefit payments to PacifiCorp. If BPA determines that PacifiCorp has not received monetary benefits due to errors in implementing this Agreement that result in an underpayment, then BPA shall pay PacifiCorp such monetary benefits within 30 days of BPA's determination that such benefits were not received. In the event PacifiCorp disputes BPA's determination regarding any overpayment or underpayment, such dispute shall be subject to resolution in the same manner as a disputed bill under section 8.2.4 above.

10. PASS-THROUGH OF BENEFITS

- 10.1 Except as otherwise provided in this Agreement, all benefit amounts received by PacifiCorp from BPA under this Agreement shall be passed through to residential and small farm customers as either: (1) a separately stated credit to applicable retail rates; (2) monetary payments; or (3) as otherwise directed by the applicable Regulatory Body(ies).
- 10.2 Benefits shall be passed through by PacifiCorp in a timely manner, as set forth in this section 10 *provided, that*, it is specifically acknowledged and agreed that distributions of benefits for the Residential Load may be made by PacifiCorp in advance of its receipt of any such benefits from BPA and that such benefits may be used to set off distributions to the Residential Load made by PacifiCorp before or after October 1, 2011. The amount of benefits held as described in section 10.3 below at any time shall not exceed the greater of: (1) the expected receipt of monetary payments from BPA under this Agreement over the next 180 days, and (2) monetary payments received from BPA under this Agreement over the preceding 180 days; *provided, however*, that if the amount of benefits held in the account is less than \$1,000,000, then PacifiCorp may distribute benefits on a less frequent basis, provided that distributions are made at least once each Fiscal Year; provided, further, that any remaining benefits held shall be distributed to Residential Load no later than one year following the earlier of: (a) the end of the term of this Agreement; or (b) termination or suspension of this Agreement.
- 10.3 Benefits shall be passed through consistent with any procedures developed by PacifiCorp's Regulatory Body(ies) that are not otherwise inconsistent with this Agreement, the Northwest Power Act, or other applicable federal law. Until PacifiCorp has passed through such benefits pursuant to section 10.1 above, benefits received by PacifiCorp shall be identified on PacifiCorp's books of account and shall accrue interest at the rate(s) established by PacifiCorp's Regulatory Body(ies).
- 10.4 Nothing in this Agreement shall require that any In-Lieu PF Power delivered to PacifiCorp pursuant to section 7 be delivered on an unbundled basis to residential and small farm customers of PacifiCorp or that PacifiCorp provide retail wheeling for such In-Lieu PF Power.

11. TERMINATION AND SUSPENSION OF AGREEMENT

11.1 Termination of Agreement

- 11.1.1 PacifiCorp may terminate this Agreement by providing BPA with written notice within 30 days following the date of approval by the Federal Energy Regulatory Commission of new BPA rates (on the earlier of such approval on an interim basis, or if interim approval is not granted, on a final basis) in which the supplemental rate charge provided for in section 7(b)(3) of the Northwest Power Act is applied and causes the PF Exchange rate charged PacifiCorp to exceed

PacifiCorp's ASC. Such termination shall become effective as of the date specified in the notice.

11.1.2 Upon termination of this Agreement pursuant to section 11.1.1, PacifiCorp shall not participate in the Residential Exchange Program established in section 5(c) of the Northwest Power Act until PacifiCorp offers to sell electric power to BPA pursuant to a new Residential Purchase and Sale Agreement (RPSA) that has been executed by the Parties. Such RPSA shall become effective no earlier than the start of the first Exchange Period following such request.

11.2 Suspension of Agreement

11.2.1 PacifiCorp may suspend performance under this Agreement for any reason upon 30 days advance written notice to BPA. Such suspension shall become effective as of the date specified in the notice, and shall suspend the rights and obligations of both Parties as of such date, and such suspension shall continue through September 30, 2028.

11.2.2 Upon suspension of this Agreement pursuant to section 11.2.1, PacifiCorp shall not seek and shall not be entitled to receive a new RPSA until the expiration of this Agreement on September 30, 2028.

11.3 Remedies

If the Federal Energy Regulatory Commission (FERC) or a court of competent jurisdiction remands, reverses, or otherwise finds unlawful a BPA final decision or decisions that affect an exchanging utility's receipt of, or failure to receive, Residential Exchange Program benefits, then BPA will review and determine the rights and obligations of the Parties through additional administrative actions(s) as necessary to respond to such regulatory or court decisions.

12. BALANCING ACCOUNT

12.1 Balancing Account

The BA balance attributable to carry over amounts under the Bridge RPSA, if any, shall be determined by BPA, subject to the resolution of any disputes regarding such determination; provided, however, that the effect of section 12.3 below shall not be stayed pending resolution of any such dispute.

The BA balance includes an adjustment for changes in the Western Region Consumer Price Index (all items) (CPI) applied to such balance beginning in October 1, 2011, and continuing until such time as the BA balance is reduced to zero, based on the methodology described below. BPA shall adjust such balance monthly effective October 1, 2011, to reflect actual monthly changes in the CPI. This BA balance (BA_B), if any, comprises the beginning balance for a balancing account described in this section.

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

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

Where

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

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

BA_B_m = Current month's ending BA balance

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

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

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

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

Where P is the amount by which the BA increases or decreases as determined by multiplying the difference of PacifiCorp's current ASC minus the applicable PF Exchange rate by the utility's Residential Load Eligible for Monetary Benefits. If the ASC is less than the applicable PF Exchange rate, P will be negative and add to the BA balance; otherwise P will be positive and reduce the BA balance.

12.2 **Additions to the Beginning Balancing Account**

Whenever the ASC is less than BPA's then-current applicable PF Exchange rate during the period that this Agreement is in effect but not in suspension, pursuant to section 11.2, the payment that would otherwise be owed BPA will be tracked by BPA and added to the balancing account.

12.3 **Resumption of Monetary Benefits**

If there is a balance in the balancing account and the ASC is greater than the applicable PF Exchange rate, BPA will make no cash payments but will apply the amount that would have been paid in order to reduce the balance in the BA account. PacifiCorp will resume the receipt of exchange payments from BPA under this Agreement if and at such time that there is no longer a balance in the BA, or PacifiCorp makes payments to BPA to bring the balance in the BA to zero. PacifiCorp may elect to make cash payments to BPA in order to eliminate all or a portion of PacifiCorp's balance in the BA at any time.

12.4 BA Balance Carry Over

Any balance in the BA, upon termination of this Agreement, shall not be a cash obligation of PacifiCorp but will carry over as a non-cash liability of PacifiCorp to the BA of a successor RPSA or other agreement implementing the Residential Exchange Program.

13. NOTICES AND CONTACT INFORMATION

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

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

Notices are effective when received. Either Party may change the name or address for delivery of notice by providing notice of such change or other mutually agreed method. The Parties shall deliver notices to the following person and address:

If to PacifiCorp:

PacifiCorp
825 NE Multnomah Street, Suite 2000
Portland, OR 97232-4116
Attn: Pat Reiten
President
Phone: 503-813-7015
FAX: 503-813-7109
E-Mail: pat.reiten@pacificorp.com

If to BPA:

Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208-3621
Attn: Charles W. Forman, Jr. – PSW-6
Account Executive
Phone: 503-230-3432
FAX: 503-230-3242
E-Mail: cformanjr@bpa.gov

14. UNCONTROLLABLE FORCES

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

- (1) any curtailment or interruption of firm transmission service on BPA's or a Third Party Transmission Provider's System that prevents delivery of Firm Requirements Power sold under this Agreement to PacifiCorp;
 - (2) any failure of PacifiCorp's distribution or transmission facilities that prevents PacifiCorp from delivering power to end-users;
 - (3) strikes or work stoppage;
 - (4) floods, earthquakes, other natural disasters, or terrorist acts; and
 - (5) final orders or injunctions issued by a court or regulatory body having subject matter jurisdiction which the Party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court having subject matter jurisdiction.
- 14.2 Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable Force. Nothing contained in this provision shall be construed to require either Party to settle any strike or labor dispute in which it may be involved.
- 14.3 If an Uncontrollable Force prevents a Party from performing any of its obligations under this Agreement, such Party shall:
- (1) immediately notify the other Party of such Uncontrollable Force by any means practicable and confirm such notice in writing as soon as reasonably practicable;
 - (2) use commercially reasonable efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligation hereunder as soon as reasonably practicable;
 - (3) keep the other Party apprised of such efforts on an ongoing basis; and
 - (4) provide written notice of the resumption of performance.

Written notices sent under this section must comply with section 13.

15. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be interpreted consistent with and governed by federal law. PacifiCorp and BPA shall identify issue(s) in dispute arising out of this Agreement and make a good faith effort to negotiate a resolution of such disputes before either may initiate litigation or arbitration. Such good faith effort shall include discussions or negotiations between the Parties' executives or managers. Pending resolution of a

contract dispute or contract issue between the Parties or through formal dispute resolution of a contract dispute arising out of this Agreement, the Parties shall continue performance under this Agreement unless to do so would be impossible or impracticable. Unless the Parties engage in binding arbitration as provided for in this section 15, the Parties reserve their rights to individually seek judicial resolution of any dispute arising under this Agreement.

15.1 Judicial Resolution

Final actions subject to section 9(e) of the Northwest Power Act are not subject to arbitration under this Agreement and shall remain within the exclusive jurisdiction of the United States Court of Appeals for the Ninth Circuit. Such final actions include, but are not limited to, the establishment and the implementation of rates and rate methodologies. Any dispute regarding any rights or obligations of PacifiCorp or BPA under any rate or rate methodology, or BPA policy, including the implementation of such policy, shall not be subject to arbitration under this Agreement. For purposes of this section 15, BPA policy means any written document adopted by BPA as a final action in a decision record or record of decision that establishes a policy of general application or makes a determination under an applicable statute or regulation. If BPA determines that a dispute is excluded from arbitration under this section 15, then PacifiCorp may apply to the federal court having jurisdiction for an order determining whether such dispute is subject to nonbinding arbitration under this section 15.

15.2 Arbitration

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

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

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

15.3 **Arbitration Procedure**

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

15.4 **Arbitration Remedies**

The payment of monies shall be the exclusive remedy available in any arbitration proceeding pursuant to this section 15. This shall not be interpreted to preclude the Parties from agreeing to limit the object of arbitration to the determination of facts. Under no circumstances shall specific performance be an available remedy against BPA.

15.5 **Finality**

15.5.1 In binding arbitration, the arbitration award shall be final and binding on the Parties, except that either Party may seek judicial review based upon any of the grounds referred to in the Federal Arbitration Act, 9 U.S.C. §1-16 (1988). Judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

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

15.6 **Arbitration Costs**

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

16. **STATUTORY PROVISIONS**

16.1 **Retail Rate Schedules**

PacifiCorp shall make its retail rate schedules available to BPA, as required by section 5(a) of the Bonneville Project Act, P.L. 75-329, within 30 days of each of PacifiCorp's retail rate schedule effective dates. This requirement may be satisfied by PacifiCorp informing BPA of its public website where such information is posted and kept current.

16.2 New Large Single Loads and CF/CTs

16.2.1 Determination of an NLSL

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

16.2.1.1 BPA shall determine an increase in production load to be an NLSL if any load associated with a new facility, an existing facility, or an expansion of an existing facility, which is not contracted for, or committed to (CF/CT), as determined by the Administrator, by a public body, cooperative, investor-owned utility, or federal agency customer prior to September 1, 1979, and which will result in an increase in power requirements of such customer of 10 Average Megawatts (87,600,000 kilowatt-hours) or more in any consecutive 12-month period.

16.2.1.2 For the sole purpose of computing the increase in energy consumption between any two consecutive 12-month periods of comparison under this section 16.2.1, reductions in the end-use consumer's load associated with a facility during the first 12-month period of comparison due to unusual events reasonably beyond the control of the end-use consumer shall be determined by BPA, and the energy consumption shall be computed as if such reductions had not occurred.

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

16.2.2 Determination of a Facility

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

- (1) whether the load is operated by a single end-use consumer;
- (2) whether the load is in a single location;
- (3) whether the load serves a manufacturing process which produces a single product or type of product;
- (4) whether separable portions of the load are interdependent;
- (5) whether the load is contracted for, served or billed as a single load under PacifiCorp's customary billing and service policy;
- (6) consideration of the facts from previous similar situations; and

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

16.2.3 Administrative Obligations and Rights

16.2.3.1 PacifiCorp's CF/CT loads and NLSLs are listed in Exhibit B.

16.2.3.2 PacifiCorp shall provide reasonable notice to BPA of any expected increase in a single load that may qualify as an NLSL. The Parties shall list any such potential NLSLs in Exhibit B. If BPA determines that any load associated with a single facility is capable of growing ten Average Megawatts or more in a consecutive 12-month period, then such load shall be subject to monitoring as determined necessary by BPA.

16.2.3.3 When BPA makes a request, PacifiCorp shall provide physical access to its substations and other service locations where BPA needs to perform inspections or gather information for purposes of implementing section 3(13) of the Northwest Power Act, including but not limited to making a final NLSL, facility, or CF/CT determination. PacifiCorp shall make a request to the end-use consumer to provide BPA, at reasonable times, physical access to inspect a facility for these purposes.

16.2.3.4 Unless the Parties agree pursuant to section 16.2.1.3 above, BPA shall determine whether a new load or an increase in existing load at a facility is an NLSL. If BPA determines that the load is an NLSL, BPA shall notify PacifiCorp and the Parties shall add the NLSL to Exhibit B to reflect BPA's determination.

16.2.4 Metering an NLSL

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

16.2.5 **Undetermined NLSLs**

If BPA concludes in its sole judgment that PacifiCorp has not fulfilled its obligations, or has not been able to obtain access or information from the end-use consumer under sections 16.2.3 and 16.2.4, BPA may determine any load subject to NLSL monitoring to be an NLSL. Such NLSL determination shall be final unless PacifiCorp proves to BPA's satisfaction that the applicable load did not exceed ten Average Megawatts in any 12-month monitoring period.

16.3 **BPA Appropriations Refinancing**

The Parties agree that the provisions of section 3201(i) of the Bonneville Power Administration Refinancing section of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (BPA Refinancing Act), P.L. 104-134, 110 Stat. 1321, 350, as stated in the United States Code on the Effective Date, are incorporated by reference and are a material term of this Agreement.

17. **STANDARD PROVISIONS**

17.1 **Amendments**

Except where this Agreement explicitly allows for one Party to unilaterally amend a provision or exhibit, no amendment of this Agreement shall be of any force or effect unless set forth in writing and signed by authorized representatives of each Party.

17.2 **Entire Agreement and Order of Precedence**

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement. The body of this Agreement shall prevail over the exhibits to this Agreement in the event of a conflict.

17.3 **Assignment**

This Agreement is binding on any successors and assigns of the Parties. Neither Party may otherwise transfer or assign this Agreement, in whole or in part, without the other Party's written consent. Such consent shall not be unreasonably withheld. Without limiting the foregoing, BPA's refusal to consent to assignment shall not be considered unreasonable if, in BPA's sole discretion the sale of power by BPA to the assignee would violate any applicable statute. PacifiCorp may not transfer or assign this Agreement to any of its retail consumers.

17.4 **No Third-Party Beneficiaries**

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

17.5 Waivers

No waiver of any provision or breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving Party, and any such waiver shall not be deemed a waiver of any other provision of this Agreement or of any other breach of this Agreement.

17.6 BPA Policies

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

18. NOTICE PROVIDED TO RESIDENTIAL AND SMALL FARM CONSUMERS

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

19. INFORMATION EXCHANGE AND CONFIDENTIALITY

19.1 Information Exchange

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

19.2 Confidentiality

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

20. ADJUSTMENTS TO MONETARY BENEFITS

The monetary benefits provided to PacifiCorp under this Agreement shall be subject to adjustment by BPA to account for the overpayment of benefits, if any, for the period October 1, 2001, through September 30, 2008. Any such adjustments shall be limited to those formally established by BPA in its wholesale power rate adjustment proceedings or other forums established by BPA for the determination of the amount of overpayment to be recovered and the associated recovery period; provided however, that any such adjustment is subject to the resolution of all administrative or judicial review thereof.

Notwithstanding anything in this Agreement to the contrary, it is hereby agreed that neither Party has waived or is waiving, either by virtue of entering into this

Agreement, by making or accepting payments under this Agreement, or otherwise, any arguments or claims it has made or may make, or any rights or obligations it has or may have, regarding: (1) the above referenced payments, if any, to PacifiCorp, (2) the calculation, implementation, or settlement of Residential Exchange Program benefits for any period of time, or (3) implementation or settlement of rights under the Contract No. 01PB-10854 (Financial Settlement Agreement), as amended, and each Party hereby expressly reserves all such arguments and rights. This section 20 shall survive the termination or the expiration of this Agreement and shall survive even if any other provision of this Agreement is held to be not consistent with law, or void, or otherwise unenforceable.

21. SIGNATURES

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

PACIFICORP

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By _____

By _____

Name _____
(Print/Type)

Name Charles W. Forman, Jr.
(Print/Type)

Title _____

Title Account Executive

Date _____

Date _____

(PSW-W:\Power\Contract\Customer\PacifiCorp\13207_Final.DOC) 09/25/09

Exhibit A
RESIDENTIAL LOAD DEFINITION

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

Such tariff schedules as presently effective include:

- (1) for all schedules listed below, include the amount, expressed in kilowatt-hours, of Residential Load supplied by PacifiCorp under:
- (A) **Oregon**
 - Schedule 4 Residential
 - Schedule 15 Outdoor Area Lighting
 - Schedule 23 General Service Small Nonresidential
 - Schedule 28 Large General Service 30 KW – 200 KW
 - Schedule 30 Large General Service 201 KW – 999 KW
 - Schedule 33 Klamath Basin Irrigation Contracts
 - Schedule 41 Agricultural Pumping
 - (B) **Washington**
 - Schedule 15 Outdoor Area Lighting
 - Schedule 16 Residential
 - Schedule 24 General Service
 - Schedule 36 Large General Service Less Than 1,000 KW
 - Schedule 40 Agricultural Pumping
 - (C) **Idaho**
 - Schedule 1 Residential
 - Schedule 6A General Service – Large Power – Residential & Farm
 - Schedule 7A Security Area Lighting – Residential and Farm
 - Schedule 10 Agricultural Pumping
 - Schedule 23A General Service – Residential and Farm
 - Schedule 36 Residential – Optional Time-of-Day, and
- (2) a portion of the Residential Load supplied by PacifiCorp as determined pursuant to section 2 of this exhibit.

2. Any farm's monthly irrigation and pumping load qualifying under this Agreement for each billing period shall not exceed the amount of the energy determined by the following formula:

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

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

where:

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

3. When more than one farm is supplied from a common pumping installation, the irrigation and pumping load of the installation shall be allocated among the farms using the installation, based on the method (*e.g.*, water shares, acreage) that the farms use to allocate the power costs among themselves. These allocated loads shall then be combined with any other irrigation and pumping loads attributed to the farms under section 2 of this exhibit. In no instance shall any farm's total qualifying irrigation loads for any billing month exceed 222,000 kWh.
4. A farm is defined as a parcel or parcels of land owned or leased by one or more persons (person includes partnerships, corporations, or any legal entity capable of owning farm land) that is used primarily for agriculture. Agriculture is defined to include the raising and incidental primary processing of crops, pasturage, or livestock. Incidental primary processing means those activities necessarily undertaken to prepare agricultural products for safe and efficient storage or shipment. All electrical loads ordinarily associated with agriculture as defined above shall be considered as usual farm use.

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

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

noncontiguous parcels constitute one or more farms. These factors include but are not limited to:

- (1) use,
 - (2) ownership,
 - (3) control,
 - (4) operating practices, and
 - (5) distance between parcels.
5. Unused irrigation allocations may not be reallocated to other farms or to another billing period.
 6. The operator of a farm is required to certify to PacifiCorp all irrigation accounts, including horsepower rating for that farm, including all irrigation accounts commonly shared. The operator of a farm is required to provide PacifiCorp and BPA all documentation requested to assist in the farm determination.
 7. This exhibit shall be revised to incorporate additional qualifying tariff schedules, subject to BPA's determination that the loads served under these schedules are qualified under the Northwest Power Act.

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Exhibit B
CF/CT AND NEW LARGE SINGLE LOADS

1. CF/CT AND NEW LARGE SINGLE LOADS

1.1 CF/CT Loads

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

- (A) End-use consumer's name: Crown-Zellerbach Corporation
Facility name: Crown-Zellerbach Millsite (now Georgia Pacific)
Facility location: Camas, Washington
Facility description: Millsite
Date of CF/CT determination:
Amount of firm energy (megawatts at 100 percent load factor) contracted for, or committed to: 76.0 aMW.

- (B) End-use consumer's name: Boise Cascade Corporation
Facility name: Boise Cascade Wallula Millsite
Facility location: Wallula, Washington
Facility description: Millsite
Date of CF/CT determination:
Amount of firm energy (megawatts at 100 percent load factor) contracted for, or committed to: 61.0 aMW.

1.2 Potential NLSLs

«Customer Name» has no identified potential NLSLs.

1.3 Existing NLSLs

1.3.1 Centralia Coal Mine NLSL

PacifiCorp has an NLSL.

End-use consumer name: Centralia Coal Mine
Facility location: near Centralia, Washington
Date load determined as an NLSL: Date of commencement of service by PacifiCorp was at 2400 hours on December 23, 1986; date of BPA's NLSL Determination was September 20, 1988
Approximate load: 10.4 aMW during first 12 months of service by PacifiCorp
Description of NLSL: Electrical coal-processing and coal-transport (conveyor) equipment
Manner of service: Served by PacifiCorp

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Exhibit C
AVERAGE SYSTEM COST METHODOLOGY

See <http://www.bpa.gov/corporate/finance/ascm/> for the current version of BPA's Average System Cost Methodology

Exhibit D
SCHEDULING

1. SCHEDULING FEDERAL RESOURCES

PacifiCorp is responsible for creating E-Tags for all deliveries of In-Lieu PF Power purchased under this Agreement.

2. AFTER THE FACT

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

3. REVISIONS

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

Revisions are effective 45 days after BPA provides written notice of the revisions to PacifiCorp unless, in BPA's sole judgment, less notice is necessary to comply with an emergency change to the requirements of the WECC, NAESB, NERC, or their successors or assigns. In this case, BPA shall specify the effective date of such revisions.

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POWER SALES AGREEMENT
executed by the
BONNEVILLE POWER ADMINISTRATION
and
PACIFICORP

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This POWER SALES AGREEMENT (Agreement) is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA), and PACIFICORP (PacifiCorp), hereinafter individually referred to as “Party” and collectively referred to as the “Parties.” PacifiCorp is an investor-owned utility organized under the laws of the State of Oregon, to purchase and distribute electric power to serve retail consumer load from its distribution system within its service area.

RECITALS

PacifiCorp’s current power sales agreement (Contract No. 08PB-11969) continues through September 30, 2011, and will be replaced by this Agreement on October 1, 2011.

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

BPA is authorized to market federal power to qualified entities that are eligible to purchase such power. Under section 5(b)(1) of the Northwest Power Act, BPA is obligated to offer a power sales agreement to eligible customers for the sale and purchase of federal power to serve their retail consumer load in the Region that is not met by the customer’s use of its non-federal resources.

The Parties agree:

1. **TERM**

This Agreement takes effect on the date signed by the Parties and expires on September 30, 2028. Performance by BPA and PacifiCorp shall commence on October 1, 2011, with the exception of those actions required prior to that date that are included in:

- (1) section 3, Block Power Purchase Obligation;
- (2) section 9, Information Exchange and Confidentiality;
- (3) section 12, Governing Law and Dispute Resolution;
- (4) section 15, Termination; and
- (5) Exhibit A, Net Requirements and Resources.

Until October 1, 2011, section 12, Governing Law and Dispute Resolution will only apply to the extent there is a dispute regarding actions required in the above referenced sections and exhibits.

2. DEFINITIONS

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

- 2.1 "5(b)/9(c) Policy" means BPA's Policy on Determining Net Requirements of Pacific Northwest Utility Customers Under sections 5(b)(1) and 9(c) of the Northwest Power Act issued May 23, 2000, and its revisions or successors.
- 2.2 "Annexed Load" means existing load, distribution system, or service territory **PacifiCorp** acquires after the Effective Date from another utility, by means of annexation, merger, purchase, trade, or other acquisition of rights, the acquisition of which has been authorized by a final state, regulatory or court action. The Annexed Load must be served from distribution facilities that are owned or acquired by **PacifiCorp**.
- 2.3 "Average Megawatts" or "aMW" means the amount of electric energy in megawatt-hours (MWh) during a specified period of time divided by the number of hours in such period.
- 2.4 "Balancing Authority" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports interconnection frequency in real time.
- 2.5 "Balancing Authority Area" means the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority.
- 2.6 "Business Day(s)" means every Monday through Friday except Federal holidays.
- 2.7 "Contract Resource" means any source or amount of electric power that **PacifiCorp** acquires from an identified or unidentified electricity-producing unit or units by contract purchase, and for which the amount received by **PacifiCorp** does not depend on the actual production from an identified Generating Resource.
- 2.8 "Dedicated Resource" means a Specified Resource or an Unspecified Resource Amount listed in Exhibit A that **PacifiCorp** is required by statute to provide or obligates itself to provide under this Agreement for use to serve its Total Retail Load. This definition does not alter or modify the resource cost treatments for NLSLs stated in the 2008 Average System Cost Methodology including use of **PacifiCorp**'s resources under section 6 of Exhibit A.
- 2.9 "Diurnal" means the division of hours within a month between Heavy Load Hours (HLH) and Light Load Hours (LLH).

- 2.10 “Due Date” shall have the meaning as described in section 8.2.
- 2.11 “Effective Date” means the date on which this Agreement has been signed by **PacifiCorp** and BPA.
- 2.12 “Firm Requirements Power” means federal power that BPA sells under this Agreement and makes continuously available to **PacifiCorp** to meet BPA’s obligations to **PacifiCorp** under section 5(b) of the Northwest Power Act.
- 2.13 “Fiscal Year” or “FY” means the period beginning each October 1 and ending the following September 30.
- 2.14 “Generating Resources” means any source or amount of electric power from an identified electricity-producing unit, and for which the amount of power received by **PacifiCorp** or **PacifiCorp**’s retail consumer is determined by the power produced from such identified electricity-producing unit. Such unit may be owned by **PacifiCorp** or **PacifiCorp**’s retail consumer in whole or in part, or all or any part of the output from such unit may be owned for a defined period by contract.
- 2.15 “Heavy Load Hours (HLH)” means hours ending 0700 through 2200 hours Pacific Prevailing Time (PPT), Monday through Saturday, excluding holidays as designated by the North American Electric Reliability Corporation (NERC). BPA may update this definition as necessary to conform to standards of the Western Electricity Coordinating Council (WECC), North American Energy Standards Board (NAESB), or NERC.
- 2.16 “Interchange Points” means the points where Balancing Authority Areas interconnect, and at which the interchange of energy between Balancing Authority Areas is monitored and measured.
- 2.17 “Issue Date” shall have the meaning as described in section 8.1.
- 2.18 “Light Load Hours (LLH)” means: (1) hours ending 0100 through 0600 and 2300 through 2400 hours PPT, Monday through Saturday, and (2) all hours on Sundays and holidays as designated by NERC. BPA may update this definition as necessary to conform to standards of the WECC, NAESB, or NERC.
- 2.19 “Net Requirement” means the amount of federal power that **PacifiCorp** is entitled to purchase from BPA to serve its Total Retail Load minus amounts of **PacifiCorp**’s Dedicated Resources shown in Exhibit A, as determined consistent with section 5(b)(1) of the Northwest Power Act.
- 2.20 “New Large Single Load” or “NLSL” has the meaning specified in section 3(13) of the Northwest Power Act and in BPA’s NLSL policy.
- 2.21 “Northwest Power Act” means the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §839, Public Law No. 96-501, as amended.

- 2.22 “Pacific Northwest Coordination Agreement” or “PNCA” means Contract No. 97PB-10130, as such agreement may be amended or replaced, among BPA, the U.S. Army Corps of Engineers, the Bureau of Reclamation, and certain generating utilities in the Region that sets forth the terms and conditions for the coordinated operation of generating resources in the Region.
- 2.23 “Point of Delivery” or “POD” means the point where power is transferred from a transmission provider to **PacifiCorp**.
- 2.24 “Point of Metering” or “POM” means the point at which power is measured.
- 2.25 “Power Services” means the organization, or its successor organization, within BPA that is responsible for the management and sale of Federal power.
- 2.26 “Primary Points of Receipt” shall have the meaning as defined in section 6.1.
- 2.27 “Region” means the Pacific Northwest as defined in section 3(14) of the Northwest Power Act.
- 2.28 “Scheduling Points of Receipt” shall have the meaning as defined in section 6.1.
- 2.29 “Specified Resources” means a Generating Resource or Contract Resource that has a nameplate capability or maximum hourly purchase amount greater than 200 kilowatts, that **PacifiCorp** is required by statute or has agreed to use to serve its Total Retail Load. Each such resource is identified as a specific Generating Resource or as a specific Contract Resource with identified parties and is listed in sections 2 and 4 of Exhibit A.
- 2.30 “Third Party Transmission Provider” means a transmission provider other than BPA that delivers power to **PacifiCorp**.
- 2.31 “Total Retail Load” means all retail electric power consumption, including electric system losses, within **PacifiCorp**’s electrical system excluding:
- (1) those loads BPA and **PacifiCorp** have agreed are nonfirm or interruptible loads,
 - (2) transfer loads of other utilities served by **PacifiCorp**, and
 - (3) any loads not on **PacifiCorp**’s electrical system or not within **PacifiCorp**’s service territory unless specifically agreed to by BPA.
- 2.32 “Transmission Services” means the organization, or its successor organization, within BPA that is responsible for the management and sale of transmission service on the Federal Columbia River Transmission System.

- 2.33 “Uncontrollable Force” has the meaning as defined in section 11.
- 2.34 “Unspecified Resource Amounts” means an amount of firm energy, listed in sections 3 and 4 of Exhibit A, that **PacifiCorp** has agreed to supply and use to serve its Total Retail Load. Such amount is not attributed to a Specified Resource.

3. BLOCK POWER PURCHASE OBLIGATION

3.1 Purchase and Sale of Block Product

Subject to the provisions of section 3.3, BPA shall sell and make available, and **PacifiCorp** shall purchase, Firm Requirements Power each hour in specific amounts to serve **PacifiCorp**’s forecasted Net Requirement, as listed in Exhibit A, from October 1, 2011 and continuing through September 30, 2028.

On a planning basis **PacifiCorp** shall serve that portion of its Total Retail Load that is not served with Firm Requirements Power with the Dedicated Resources listed in Exhibit A. Such amounts listed in Exhibit A are not intended to govern how **PacifiCorp** shall operate its Dedicated Resources.

3.2 Take or Pay

PacifiCorp shall pay for the amount of power it has committed to purchase and that BPA makes available under section 3.1, at the rates BPA establishes as applicable to such power, whether or not **PacifiCorp** took actual delivery of such power.

3.3 Establishment of Block Power Amounts

3.3.1 Provisions Related to Delivery

Firm Requirements Power shall be made available to **PacifiCorp** as a flat annual block, which delivers an equal amount of firm Requirements Power in all hours of each month for each FY.

3.3.2 Notice Deadlines and Purchase Periods

Notice Deadlines and corresponding Purchase Periods are as follows:

Notice Deadline		Purchase Period
November 1, 2009	For	FY 2012 – FY 2019
September 30, 2016	For	FY 2020 – FY 2028

3.3.3 Short-Term Rate Purchases

By each Notice Deadline above, **PacifiCorp** shall provide written notice to BPA of **PacifiCorp**’s purchase amounts of Firm Requirements Power priced at the NR Rate for each year of the corresponding Purchase Period. If **PacifiCorp** does not provide such notice, **PacifiCorp** shall purchase zero amounts of Firm Requirements Power priced at the NR

Rate for the corresponding Purchase Period. BPA and **PacifiCorp** shall amend this Agreement in order to update the table below to show **PacifiCorp**'s purchase amounts.

Purchase Amounts									
Fiscal Year	2012	2013	2014	2015	2016	2017	2018	2019	
aMW	0	0	0	0	0	0	0	0	
Fiscal Year	2020	2021	2022	2023	2024	2025	2026	2027	2028
aMW	0	0	0	0	0	0	0	0	0

3.4 Application of Dedicated Resources

PacifiCorp agrees to serve a portion of its Total Retail Load with the Dedicated Resources listed in Exhibit A as follows:

- (1) Specified Resources that are Generating Resources shall be listed in section 2.1 of Exhibit A,
- (2) Specified Resources that are Contract Resources shall be listed in section 2.2 of Exhibit A, and
- (3) Unspecified Resource Amounts shall be listed in section 3.1 of Exhibit A.

PacifiCorp shall use its Dedicated Resources to serve its Total Retail Load, and specify amounts of its Dedicated Resources in the tables shown in Exhibit A, as stated below for each specific resource and type.

3.4.1 Specified Resources

3.4.1.1 Application of Specified Resources

PacifiCorp shall use the output of all Specified Resources, listed in section 2 of Exhibit A, to serve **PacifiCorp**'s Total Retail Load. BPA shall determine **PacifiCorp**'s Net Requirement, using the amounts listed in the then current Exhibit A for each Fiscal Year. The amounts listed are not intended to interfere with **PacifiCorp**'s operation of its Specified Resources.

3.4.1.2 Determining Specified Resource Amounts

By June 30, 2009, **PacifiCorp** shall provide to BPA a list of Specified Resources and accompanying resource profile data in the format shown in section 2 of Exhibit A.

By September 30, 2009, BPA in consultation with **PacifiCorp** shall determine the list of Specified Resources and accompanying resource profile data in the format shown in section 2 of Exhibit A for each month beginning with the later of the date the resource was dedicated to load or October 1,

2011, through the earlier of the date the resource will be permanently removed or September 30, 2028. Such amounts shall be calculated consistent with the 5(b)/9(c) Policy. By September 30, 2009, BPA shall insert into section 2 of Exhibit A **PacifiCorp**'s Specified Resources and accompanying resource profile data in the format shown in section 2 of Exhibit A.

3.4.2 Unspecified Resource Amounts

3.4.2.1 Determining Unspecified Resource Amounts

By September 15, 2011, and by each September 15 thereafter, the Parties shall calculate, and BPA shall fill in the tables in section 3.1 of Exhibit A with, **PacifiCorp**'s Unspecified Resource Amounts for the upcoming Fiscal Year. Upon termination or expiration of this Agreement any Unspecified Resource Amounts listed in Exhibit A shall expire and **PacifiCorp** shall have no further obligation to apply Unspecified Resource Amounts.

3.5 Changes to Dedicated Resources

3.5.1 Resource Additions for a BPA Insufficiency Notice

If BPA provides **PacifiCorp** a notice of insufficiency and reduces its purchase obligation, in accordance with section 13.2, then **PacifiCorp** may add Dedicated Resources to replace amounts of Firm Requirements Power BPA will not be providing due to insufficiency. The Parties shall revise Exhibit A to reflect such additions.

3.5.2 Decrements for 9(c) Export

If BPA determines, in accordance with section 13.6, that an export of a Specified Resource listed in section 2 of Exhibit A requires a reduction in the amount of Firm Requirements Power BPA sells **PacifiCorp** then BPA shall notify **PacifiCorp** of the amount and duration of the reduction in **PacifiCorp**'s Firm Requirements Power purchases from BPA. Within 20 days of such notification **PacifiCorp** may add a Specified Resource to section 2 of Exhibit A in the amount of such decrement. If **PacifiCorp** does not add a Specified Resource to meet such decrement, then within 30 days of such notification BPA shall add Unspecified Resource Amounts to section 3.2 of Exhibit A in the amount and for the duration of such decrement.

3.5.3 Permanent Discontinuance of Resources

PacifiCorp may permanently remove a Specified Resource listed in section 2 of Exhibit A, consistent with the 5(b)/9(c) Policy on statutory discontinuance for permanent removal. If BPA makes a determination that **PacifiCorp**'s Specified Resource has met BPA's standards for a permanent removal, then BPA shall revise Exhibit A accordingly. If **PacifiCorp** does not replace such resource with another

Dedicated Resource, then **PacifiCorp**'s additional Firm Requirements Power purchases under this Agreement, as a result of such a resource removal, may be subject to additional rates or charges as established in the Wholesale Power Rates Schedules and GRSPs.

3.5.4 Resource Additions for Annexed Loads

To serve amounts of Annexed Loads that are added after the Effective Date, **PacifiCorp** may add Dedicated Resources to Exhibit A pursuant to **PacifiCorp**'s elections to purchase Firm Requirements Power from BPA. **PacifiCorp**'s additional power purchases under this Agreement, as a result of such Annexed Loads, may be subject to additional rates or charges as established in the GRSPs.

3.5.5 Resource Additions/Removals for NLSLs

3.5.5.1 To serve an NLSL listed in Exhibit B that is added after the Effective Date, **PacifiCorp** may add Dedicated Resources to section 4 of Exhibit A. **PacifiCorp** may discontinue serving its NLSL with the Dedicated Resources listed in section 4 of Exhibit A if BPA determines that **PacifiCorp**'s NLSL is no longer an NLSL in **PacifiCorp**'s service territory.

3.5.5.2 If **PacifiCorp** elects to serve an NLSL with Dedicated Resources, then **PacifiCorp** shall specify in section 4 of Exhibit A the maximum monthly and Diurnal Dedicated Resource amounts that **PacifiCorp** plans to use to serve the NLSL. **PacifiCorp** shall establish such firm energy amounts for each month beginning with the date the resource was dedicated to load through the earlier of the date the resource will be removed or September 30, 2028. **PacifiCorp** shall serve the actual load of the NLSL up to such maximum amounts with such Dedicated Resource amounts. To the extent that the NLSL load is less than the maximum amount in any monthly or Diurnal period, **PacifiCorp** shall have no right or obligation to use such amounts to serve the non-NLSL portion of its Total Retail Load. Specific arrangements to match such resources to the NLSL on an hourly basis shall be established in Exhibit B.

4. APPLICABLE RATES

Purchases under this Agreement are subject to the New Resource Firm Power (NR) rate schedule, or its successor. Billing determinants for any purchases are included in the rate schedule. Power purchases under this Agreement are subject to BPA's Wholesale Power Rates Schedules and its GRSPs (or their successors).

4.1 New Resource Firm Power Rates

BPA shall establish its NR power rates that apply to purchases under this Agreement pursuant to section 7 of the Northwest Power Act.

4.2 Additional Charges

PacifiCorp may incur any additional charges or penalty charges as established in the Wholesale Power Rates Schedules and GRSPs, including the Unauthorized Increase Charge, or its successor.

5. SCHEDULING

PacifiCorp shall schedule power in accordance with Exhibit C.

6. DELIVERY

6.1 Definitions

6.1.1 “Primary Points of Receipt” means the points on the Pacific Northwest transmission system where Firm Requirements Power is forecasted to be made available by Power Services to **PacifiCorp** for purposes of obtaining a long-term firm transmission contract.

6.1.2 “Scheduling Points of Receipt” means the points on the Pacific Northwest transmission system where Firm Requirements Power is made available by Power Services to **PacifiCorp** for purposes of transmission scheduling.

6.2 Transmission Service

6.2.1 **PacifiCorp** is responsible for delivery of power from the Scheduling Points of Receipt.

6.2.2 **PacifiCorp** shall provide at least 60 days’ notice to Power Services prior to changing Balancing Authority Areas.

6.2.3 At **PacifiCorp**’s request, Power Services shall provide **PacifiCorp** with Primary Points of Receipt and other information needed to enable **PacifiCorp** to obtain long-term firm transmission for delivery of power sold under this Agreement. If required by Transmission Services for purposes of transmission scheduling, then Power Services shall provide **PacifiCorp** with Scheduling Points of Receipt. Power Services has the right to provide power to **PacifiCorp** at Scheduling Points of Receipt that are different than the Primary Points of Receipt. If BPA does provide power to **PacifiCorp** at Scheduling Points of Receipt that are different than the Primary Points of Receipt, then BPA shall reimburse **PacifiCorp** for any incremental, direct, non-administrative costs incurred by **PacifiCorp** to comply with delivering Firm Requirements Power from such a Scheduling Point of Receipt to **PacifiCorp**’s load if the following conditions, as outlined in (1) or (2) below, have been met:

- (1) If **PacifiCorp** has long-term Point to Point (PTP) transmission service (as defined in BPA’s Open Access Transmission Tariff) for delivery of Firm Requirements Power to its load:

- (A) **PacifiCorp** has requested long-term firm transmission service to deliver its Firm Requirements Power using the Primary Points of Receipt and other information provided by Power Services; and
 - (B) **PacifiCorp** has submitted a request to redirect its long-term firm PTP transmission service to deliver Firm Requirements Power from the Scheduling Point of Receipt on a firm basis, but that request was not granted; and
 - (C) **PacifiCorp**'s transmission schedule was curtailed due to non-firm status under PTP transmission service or **PacifiCorp** can provide proof of the reimbursable costs incurred to replace the curtailed schedule.
- (2) If **PacifiCorp** has long-term Network Integration Transmission Service (as defined in BPA's Open Access Transmission Tariff) for delivery of Firm Requirements Power to its load:
- (A) **PacifiCorp** has requested long-term firm transmission service to deliver its Firm Requirements Power using the Primary Points of Receipt and other information provided by Power Services; and
 - (B) **PacifiCorp**'s transmission schedule was curtailed due to non-firm status under its secondary service status and **PacifiCorp** can provide proof of the reimbursable costs incurred to replace the curtailed schedule.

6.3 **Liability for Delivery**

PacifiCorp waives any claims against BPA arising under this Agreement for non-delivery of power to any points beyond the applicable Scheduling Points of Receipt, except for reimbursement of costs as described in section 6.2.3. BPA shall not be liable under this Agreement for any third-party claims related to the delivery of power after it leaves the Scheduling Points of Receipt. Neither Party shall be liable under this Agreement to the other Party for damage that results from any sudden, unexpected, changed, or abnormal electrical condition occurring in or on any electric system, regardless of ownership.

6.4 **Real Power Losses**

BPA is responsible for the real power losses necessary to deliver Firm Requirements Power to **PacifiCorp**'s PODs listed in Exhibit D.

6.5 Metering Losses

BPA shall adjust measured amounts of power to account for losses, if any, that occur between **PacifiCorp**'s PODs and the respective POMs, as specified in Exhibit D.

7. METERING

7.1 Requirements for Meters

PacifiCorp's purchase obligations in section 3 do not require retail load meters for billing and payment. For purposes of forecasting and planning, BPA may require **PacifiCorp** to provide BPA some or all of **PacifiCorp**'s load data, as required by section 9.4.

If, during the term of this Agreement, BPA determines that the retail load data BPA has requested and **PacifiCorp** has provided to BPA is not adequate or verifiable, or if BPA determines that either retail load or resource meter data is needed to administer this Agreement, then **PacifiCorp** shall allow BPA to install BPA owned meters, at BPA's expense, to collect such data. For all existing meters listed in Exhibit D used by BPA for forecasting and planning, and for new meters, the following requirements shall apply.

7.1.1 BPA Owned Meters

At BPA's expense, BPA shall operate, maintain, and replace, as necessary all metering equipment owned by BPA that is needed to forecast and plan for **PacifiCorp**'s power needs under this Agreement. **PacifiCorp** authorizes BPA to maintain and replace any BPA owned meter on **PacifiCorp** facilities. With reasonable notice from BPA and for the purpose of implementing this provision, **PacifiCorp** shall grant BPA reasonable physical access to BPA owned meters at BPA's request.

If, at any time, BPA or **PacifiCorp** determines that a BPA owned meter is defective or inaccurate, then BPA shall adjust, repair, or replace the meter to provide accurate metering as soon as practical.

BPA shall give **PacifiCorp** access to meter data from the BPA owned meters listed in Exhibit D.

7.1.2 Non-BPA Owned Meters

7.1.2.1 Customer Owned Meters

For all **PacifiCorp** owned metering equipment that is needed by BPA to forecast and plan for **PacifiCorp**'s power needs under this Agreement, **PacifiCorp** shall give BPA direct, electronic access to meter data from all **PacifiCorp** owned meters that are capable of being accessed electronically. For the purpose of inspection, **PacifiCorp** shall grant BPA reasonable physical access to **PacifiCorp**'s meters at BPA's request.

PacifiCorp shall operate, maintain, and replace, as necessary at **PacifiCorp** expense, all **PacifiCorp** owned metering equipment.

If, at any time, BPA or **PacifiCorp** determines that a **PacifiCorp** owned meter listed in Exhibit D is defective or inaccurate, then **PacifiCorp** shall adjust, repair, or replace the meter, or shall make commercially reasonable efforts to arrange for the completion of such actions, to provide accurate metering as soon as practical. BPA shall have the right to witness any meter tests conducted by **PacifiCorp** on **PacifiCorp** owned meters listed in Exhibit D and, with reasonable advance notice, BPA may conduct tests on such meters. **PacifiCorp** shall have the right to witness any meter tests conducted by BPA.

7.1.2.2 Non-BPA Owned Meters Not Owned by PacifiCorp

For non-BPA owned meters not owned by **PacifiCorp** needed by BPA to forecast and plan, **PacifiCorp** shall make commercially reasonable efforts to arrange for such meters to be operated, maintained and replaced, as necessary.

If, at any time, it is determined that a non-BPA owned meter not owned by **PacifiCorp** listed in Exhibit D is defective or inaccurate, then **PacifiCorp** shall make commercially reasonable efforts to arrange to adjust, repair, or replace the meter, to provide accurate metering as soon as practical. To the extent possible, BPA may witness any meter tests on non-BPA owned meters not owned by **PacifiCorp** listed in Exhibit D and, with reasonable advance notice, BPA may conduct tests on such meters. **PacifiCorp** shall have the right to witness any meter tests conducted by BPA.

7.1.2.3 Non-BPA Owned Meters Owned by a Third-Party Transmission Provider

This section 7.1.2 shall not apply to non-BPA owned meters that are owned by a Third-Party Transmission Provider with which BPA holds a transmission contract for service to **PacifiCorp** load. In these cases the metering arrangements shall be between BPA and the Third-Party Transmission Provider.

7.1.3 New Meters

A separate agreement addressing the location, cost responsibility, access, maintenance, testing, and liability of the Parties with respect to new meters shall be between **PacifiCorp** and Transmission Services.

All new and replaced meters installed by BPA or **PacifiCorp** shall meet the American National Standard Institute standards, including, but not limited to, C12.20, Electricity Meters—0.2 and 0.5 Accuracy Classes and the Institute of Electrical and Electronics Engineers, Inc. standard C57.13, Requirements for Instrument Transformers, or their successors. Any new and replaced meters shall be able to record meter data hourly, store data for a minimum of 45 days, and be accessed electronically.

7.2 Metering an NLSL

Any loads that are monitored by BPA for an NLSL determination and any NLSLs shall be metered pursuant to section 13.3.4.

7.3 Metering Exhibit

PacifiCorp shall provide meter data specified in section 9.3 and shall notify BPA of any changes to PODs, POMs, Interchange Points and related information for which it is responsible. BPA shall list **PacifiCorp**'s PODs and meters in Exhibit D.

8. BILLING AND PAYMENT

8.1 Billing

BPA shall bill **PacifiCorp** monthly for all products and services provided during the preceding month(s). BPA may send **PacifiCorp** an estimated bill followed by a final bill. The Issue Date is the date BPA electronically sends the bill to **PacifiCorp**. If electronic transmittal of the entire bill is not practical, then BPA shall transmit a summary electronically, and send the entire bill by United States mail.

8.2 Payment

PacifiCorp shall pay all bills electronically in accordance with instructions on the bill. Payment of all bills, whether estimated or final, must be received by the 20th day after the Issue Date of the bill (Due Date). If the 20th day is a Saturday, Sunday, or federal holiday, then the Due Date is the next Business Day.

If **PacifiCorp** has made payment on an estimated bill then:

- (1) if the amount of the final bill exceeds the amount of the estimated bill, then **PacifiCorp** shall pay BPA the difference between the estimated bill and final bill by the final bill's Due Date; or
- (2) if the amount of the final bill is less than the amount of the estimated bill, then BPA shall pay **PacifiCorp** the difference between the estimated bill and final bill by the 20th day after the final bill's Issue Date. If the 20th day is a Saturday, Sunday, or federal holiday, BPA shall pay the difference by the next Business Day.

8.3 Late Payments

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

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

shall be applied each day to any unpaid balance.

8.4 Termination

If **PacifiCorp** has not paid its bill in full by the Due Date, it shall have 45 days to cure its nonpayment by making payment in full. If **PacifiCorp** does not provide payment within three Business Days after receipt of an additional written notice from BPA, and BPA determines in its sole discretion that **PacifiCorp** is unable to make the payments owed, then BPA may terminate this Agreement. Written notices sent under this section 8.4 must comply with section 10.

8.5 Disputed Bills

8.5.1 If **PacifiCorp** disputes any portion of a charge or credit on **PacifiCorp**'s estimated or final bills, **PacifiCorp** shall provide written notice to BPA with a copy of the bill noting the disputed amounts. Notwithstanding whether any portion of the bill is in dispute, **PacifiCorp** shall pay the entire bill by the Due Date. This section 8.5.1 does not allow **PacifiCorp** to challenge the validity of any BPA rate.

8.5.2 Unpaid amounts on a bill (including both disputed and undisputed amounts) are subject to the late payment charges provided above. Notice of a disputed charge on a bill does not constitute BPA's agreement that a valid claim under contract law has been stated.

8.5.3 If the Parties agree, or if after a final determination of a dispute pursuant to section 12, **PacifiCorp** is entitled to a refund of any portion of the disputed amount, then BPA shall make such refund with simple interest computed from the date of receipt of the disputed payment to the date the refund is made. The daily interest rate shall equal the Prime Rate (as reported in the Wall Street Journal or successor publication in the first issue published during the month in which payment was due) divided by 365.

9. INFORMATION EXCHANGE AND CONFIDENTIALITY

9.1 General Requirements

Upon request, each Party shall provide the other Party with any information that is necessary to administer this Agreement, and to forecast **PacifiCorp**'s Total Retail Load, forecast BPA system load, comply with NERC reliability

standards, prepare bills, resolve billing disputes, and otherwise implement this Agreement. For example, this obligation includes transmission and power scheduling information and load and resource metering information (such as one-line diagrams, metering diagrams, loss factors, etc.). In addition, **PacifiCorp** shall provide information BPA requests about Dedicated Resources for purposes of meeting BPA's statutory obligations under section 7(b) of the Northwest Power Act. Information requested under this section 9.1 shall be provided in a timely manner. If **PacifiCorp** fails to provide BPA with information **PacifiCorp** is required to provide pursuant to this Agreement and the absence of such information makes it impossible for BPA to perform a calculation, make a determination, or take an action required under this Agreement, then BPA may suspend its obligation to perform such calculation, make such determination, or take such action until **PacifiCorp** has provided such information to BPA.

9.2. Reports

9.2.1 Within 30 days after final approval of **PacifiCorp**'s annual financial report and statements by **PacifiCorp**'s authorized officer, **PacifiCorp** shall either e-mail them to BPA at kslf@bpa.gov or, if any of the information is publicly available, then **PacifiCorp** shall notify BPA of its availability.

9.2.2 Within 30 days after its submittal to the Energy Information Administration (EIA), or its successor, **PacifiCorp** shall e-mail a copy of its Annual Form EIA-861 Reports to BPA at kslf@bpa.gov. If **PacifiCorp** is not required to submit such reports to the EIA, then this requirement does not apply.

9.3 Meter Data

9.3.1 In accordance with section 7 and Exhibit D, the Parties shall notify each other of any changes to PODs, POMs, Interchange Points and related information for which it is responsible. **PacifiCorp** shall ensure BPA has access to all data from load and resource meters that BPA determines is necessary to forecast, plan, schedule, and bill under this Agreement. Access to this data shall be on a schedule determined by BPA. Meter data shall be in hourly increments for all meters that record hourly data. Meter data includes, but is not limited to: **PacifiCorp**'s actual amounts of energy used or expended for loads and resources, and the physical attributes of **PacifiCorp**'s meters.

9.3.2 **PacifiCorp** consents to allow Power Services to receive the following information from Transmission Services or BPA's metering function: (1) **PacifiCorp**'s meter data, as specified in section 9.3.1, section 7, and Exhibit D and (2) notification of outages or load shifts.

- 9.3.3 At least 15 calendar days in advance, **PacifiCorp** shall e-mail BPA at: (1) mdm@bpa.gov and (2) the contact shown in section 10 when the following events are planned to occur on **PacifiCorp**'s system that will affect the load measured by the meters listed in Exhibit D:
(1) installation of a new meter, (2) changes or updates to an existing meter not owned by BPA, (3) any planned line or planned meter outages, and (4) any planned load shifts from one POD to another. This section 9.3.3 is not intended to apply to retail meters not listed in Exhibit D.
- 9.3.4 If an unplanned load shift or outage occurs, materially affecting the load measured by the meters listed in Exhibit D, then **PacifiCorp** shall e-mail BPA at: (1) mdm@bpa.gov, and (2) the contact shown in section 10 within 72 hours after the event.

9.4 **Hourly Total Retail Load Data**

BPA shall notify **PacifiCorp** by June 30, 2009, if BPA determines that it does not have adequate hourly meter data to calculate **PacifiCorp**'s Total Retail Load. If BPA sends such notification, **PacifiCorp** shall e-mail the following hourly data to BPA at kslf@bpa.gov according to the schedule below. **PacifiCorp** shall submit such data in a comma-separated-value (csv) format with the time/date stamp in one column and load amounts, with units of measurement specified, in another column.

- 9.4.1 By December 31, 2009, **PacifiCorp** shall send to BPA **PacifiCorp**'s actual hourly Total Retail Load data for Fiscal Year 2002 through Fiscal Year 2009.
- 9.4.2 By December 31, 2010, **PacifiCorp** shall send to BPA, **PacifiCorp**'s actual hourly Total Retail Load data for each Point of Delivery for Fiscal Year 2010.
- 9.4.3 By December 31, 2011, and by December 31 of each year thereafter, **PacifiCorp** shall send BPA **PacifiCorp**'s actual hourly Total Retail Load data for the immediately preceding Fiscal Year.

9.5 **Total Retail Load Forecast**

By June 30, 2011, and by June 30 of each year thereafter, **PacifiCorp** shall provide BPA a forecast of **PacifiCorp**'s monthly energy and **PacifiCorp**'s system coincidental peak of **PacifiCorp**'s Total Retail Load for the upcoming ten Fiscal Years. **PacifiCorp** shall e-mail the forecast to BPA at kslf@bpa.gov, in a comma-separated-value (csv) format. **PacifiCorp** shall send the csv file with the following data elements in separate columns:

- (1) four-digit calendar year,
- (2) three-character month identifier,
- (3) monthly energy forecast,

- (4) unit measurement of monthly energy forecast,
- (5) monthly **PacifiCorp**-system coincidental peak forecast, and
- (6) unit measurement of monthly **PacifiCorp**-system coincidental peak forecast.

9.6 **Confidentiality**

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

9.7 **Resources Not Used to Serve Total Retail Load**

By June 30, 2009, **PacifiCorp** shall provide a list for inclusion in section 6 of Exhibit A of all Generating Resources and Contract Resources **PacifiCorp** owns that are (1) not Specified Resources listed in section 2 of Exhibit A, and (2) greater than 200 kilowatts of nameplate capability. At BPA's request **PacifiCorp** shall provide BPA with additional data if needed to verify the information listed in section 6 of Exhibit A. By September 30, 2009, BPA shall insert this information into Exhibit A.

10. **NOTICES AND CONTACT INFORMATION**

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

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

Notices are effective when received. Either Party may change the name or address for delivery of notice by providing notice of such change or other mutually agreed method. The Parties shall deliver notices to the following person and address:

If to **PacifiCorp**:

PacifiCorp, d.b.a. Pacific Power
825 NE Multnomah Street
Suite 2000
Portland, OR 97232-4116
Attn: **Pat Reiten**
President
Phone: 503-813-7015
FAX: 503-813-7109
E-Mail: pat.reiten@pacificorp.com

If to BPA:

Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208-3621
Attn: **Charles W. Forman – PSW-6**
Account Executive
Phone: 503-230-3432
FAX: 503-230-3242
E-Mail: cformanjr@bpa.gov

11. UNCONTROLLABLE FORCES

- 11.1 A Party shall not be in breach of an obligation under this Agreement to the extent its failure to fulfill the obligation is due to an Uncontrollable Force. “Uncontrollable Force” means an event beyond the reasonable control, and without the fault or negligence, of the Party claiming the Uncontrollable Force, that prevents that Party from performing its obligations under this Agreement and which that Party could not have avoided by the exercise of reasonable care, diligence and foresight. Uncontrollable Forces include each event listed below, to the extent it satisfies the foregoing criteria, but are not limited to only these listed events:
- (1) any curtailment or interruption of firm transmission service on BPA’s or a Third Party Transmission Provider’s System that prevents delivery of Firm Requirements Power sold under this Agreement to **PacifiCorp**;
 - (2) any failure of **PacifiCorp**’s distribution or transmission facilities that prevents **PacifiCorp** from delivering power to end-users;
 - (3) strikes or work stoppage;
 - (4) floods, earthquakes, other natural disasters, or terrorist acts; and
 - (5) final orders or injunctions issued by a court or regulatory body having subject matter jurisdiction which the Party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court having subject matter jurisdiction.
- 11.2 Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable Force. Nothing contained in this provision shall be construed to require either Party to settle any strike or labor dispute in which it may be involved.

- 11.3 If an Uncontrollable Force prevents a Party from performing any of its obligations under this Agreement, such Party shall:
- (1) immediately notify the other Party of such Uncontrollable Force by any means practicable and confirm such notice in writing as soon as reasonably practicable;
 - (2) use commercially reasonable efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligation hereunder as soon as reasonably practicable;
 - (3) keep the other Party apprised of such efforts on an ongoing basis; and
 - (4) provide written notice of the resumption of performance.

Written notices sent under this section must comply with section 10.

12. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be interpreted consistent with and governed by federal law. **PacifiCorp** and BPA shall identify issue(s) in dispute arising out of this Agreement and make a good faith effort to negotiate a resolution of such disputes before either may initiate litigation or arbitration. Such good faith effort shall include discussions or negotiations between the Parties' executives or managers. Pending resolution of a contract dispute or contract issue between the Parties or through formal dispute resolution of a contract dispute arising out of this Agreement, the Parties shall continue performance under this Agreement unless to do so would be impossible or impracticable. Unless the Parties engage in binding arbitration as provided for in this section 12, the Parties reserve their rights to individually seek judicial resolution of any dispute arising under this Agreement.

12.1 Judicial Resolution

Final actions subject to section 9(e) of the Northwest Power Act are not subject to arbitration under this Agreement and shall remain within the exclusive jurisdiction of the United States Court of Appeals for the Ninth Circuit. Such final actions include, but are not limited to, the establishment and the implementation of rates and rate methodologies. Any dispute regarding any rights or obligations of **PacifiCorp** or BPA under any rate or rate methodology, or BPA policy, including the implementation of such policy, shall not be subject to arbitration under this Agreement. For purposes of this section 12, BPA policy means any written document adopted by BPA as a final action in a decision record or record of decision that establishes a policy of general application or makes a determination under an applicable statute or regulation. If BPA determines that a dispute is excluded from arbitration under this section 12, then **PacifiCorp** may apply to the federal court having jurisdiction for an order determining whether such dispute is subject to nonbinding arbitration under this section 12.

12.2 **Arbitration**

Any contract dispute or contract issue between the Parties arising out of this Agreement, which is not excluded by section 12.1 above, shall be subject to arbitration, as set forth below.

PacifiCorp may request that BPA engage in binding arbitration to resolve any dispute. If **PacifiCorp** requests such binding arbitration and BPA determines in its sole discretion that binding arbitration of the dispute is appropriate under BPA's Binding Arbitration Policy or its successor, BPA shall engage in such binding arbitration, provided that the remaining requirements of this section 12.2 and sections 12.3 and 12.4 are met. BPA may request that **PacifiCorp** engage in binding arbitration to resolve any dispute. In response to BPA's request, **PacifiCorp** may agree to binding arbitration of such dispute, provided that the remaining requirements of this section 12.2 and sections 12.3 and 12.4 are met. Before initiating binding arbitration, the Parties shall draft and sign an agreement to engage in binding arbitration, which shall set forth the precise issue in dispute, the amount in controversy, and the maximum monetary award allowed, pursuant to BPA's Binding Arbitration Policy or its successor.

Nonbinding arbitration shall be used to resolve any dispute arising out of this contract that is not excluded by section 12.1 above and is not resolved via binding arbitration, unless **PacifiCorp** notifies BPA that it does not wish to proceed with nonbinding arbitration.

12.3 **Arbitration Procedure**

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

12.4 **Arbitration Remedies**

The payment of monies shall be the exclusive remedy available in any arbitration proceeding, pursuant to this section 12. This shall not be interpreted to preclude the Parties from agreeing to limit the object of arbitration to the determination of facts. Under no circumstances shall specific performance be an available remedy against BPA.

12.5 **Finality**

12.5.1 In binding arbitration, the arbitration award shall be final and binding on the Parties, except that either Party may seek judicial review based upon any of the grounds referred to in the Federal Arbitration Act, 9 U.S.C. §1-16 (1988). Judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

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

12.6 Arbitration Costs

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

13. STATUTORY PROVISIONS

13.1 Retail Rate Schedules

PacifiCorp shall make its retail rate schedules available to BPA, as required by section 5(a) of the Bonneville Project Act, P.L. 75-329, within 30 days of each of **PacifiCorp**'s retail rate schedule effective dates. This requirement may be satisfied by **PacifiCorp** informing BPA of its public website where such information is posted and kept current.

13.2 Insufficiency and Allocations

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

13.3 New Large Single Loads and CF/CTs

13.3.1 Determination of an NLSL

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

13.3.1.1 BPA shall determine an increase in production load to be an NLSL if any load associated with a new facility, an existing facility, or an expansion of an existing facility, which is not contracted for, or committed to (CF/CT), as determined by the Administrator, by a public body, cooperative, investor-owned utility, or federal agency customer prior to September 1, 1979, and which will result in an increase in power requirements of such customer of 10 Average Megawatts (87,600,000 kilowatt-hours) or more in any consecutive 12-month period.

13.3.1.2 For the sole purpose of computing the increase in energy consumption between any two consecutive 12-month periods of comparison under this section 13.3.1, reductions in the end-use consumer's load associated with a facility during the first 12-month period of comparison due to unusual events reasonably beyond the control of the end-use consumer shall be determined by BPA, and the energy consumption shall be computed as if such reductions had not occurred.

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

13.3.2 Determination of a Facility

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

- (1) whether the load is operated by a single end-use consumer;
- (2) whether the load is in a single location;
- (3) whether the load serves a manufacturing process which produces a single product or type of product;
- (4) whether separable portions of the load are interdependent;
- (5) whether the load is contracted for, served or billed as a single load under **PacifiCorp**'s customary billing and service policy;

- (6) consideration of the facts from previous similar situations; and
- (7) any other factors the Parties determine to be relevant.

13.3.3 Administrative Obligations and Rights

13.3.3.1 **PacifiCorp**'s CF/CT loads and NLSLs loads are listed in Exhibit B.

13.3.3.2 **PacifiCorp** shall provide reasonable notice to BPA of any expected increase in a single load that may qualify as an NLSL. The Parties shall list any such potential NLSLs in Exhibit B. If BPA determines that any load associated with a single facility that is capable of growing 10 Average Megawatts or more in a consecutive 12-month period, then such load shall be subject to monitoring as determined necessary by BPA.

13.3.3.3 When BPA makes a request, **PacifiCorp** shall provide physical access to its substations and other service locations where BPA needs to perform inspections or gather information for purposes of implementing section 3(13) of the Northwest Power Act, including but not limited to making a final NLSL, facility, or CF/CT determination. **PacifiCorp** shall make a request to the end-use consumer to provide BPA, at reasonable times, physical access to inspect a facility for these purposes.

13.3.3.4 Unless the Parties agree pursuant to section 13.3.1.3 above, BPA shall determine whether a new load or an increase in existing load at a facility is an NLSL. If BPA determines that the load is an NLSL, BPA shall notify **PacifiCorp** and the Parties shall add the NLSL to Exhibit B to reflect BPA's determination.

13.3.4 Metering an NLSL

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

13.3.5 Undetermined NLSLs

If BPA concludes in its sole judgment that **PacifiCorp** has not fulfilled its obligations, or has not been able to obtain access or information from the end-use consumer, under sections 13.3.3 and 13.3.4, BPA may determine any load subject to NLSL monitoring to be an NLSL. Such NLSL determination shall be final unless **PacifiCorp** proves to BPA's satisfaction that the applicable load did not exceed 10 Average Megawatts in any 12-month monitoring period.

13.3.6 Service Elections for an NLSL

PacifiCorp shall serve all NLSLs with Dedicated Resource amounts in Exhibit A that are not already being used to serve **PacifiCorp**'s Total Retail Load in the region. **PacifiCorp** agrees to provide such Dedicated Resources on a continuous basis as identified in Exhibit A. Under no circumstances shall BPA be required to acquire firm power for service to such NLSLs.

13.4 Priority of Pacific Northwest Customers

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

13.5 Prohibition on Resale

PacifiCorp shall not resell Firm Requirements Power except to serve **PacifiCorp**'s Total Retail Load or as otherwise permitted by federal law.

13.6 Use of Regional Resources

13.6.1 Within 60 days prior to the start of each Fiscal Year, **PacifiCorp** shall provide notice to BPA of any Firm Power from a Generating Resource, or a Contract Resource during its term, that has been used to serve firm consumer load in the Region and that **PacifiCorp** plans to export for sale outside the Region in the next Fiscal Year. For purposes of this section 13.6, "Firm Power" means electric power which is continuously made available from **PacifiCorp**'s operation of generation or from its purchased power, which is able to meet its Total Retail Load, except when such generation or power is curtailed or restricted due to an Uncontrollable Force. Firm Power includes firm energy and firm peaking energy or both.

BPA may request and **PacifiCorp** shall provide within 30 days of such request, additional information on **PacifiCorp**'s sales and dispositions of non-federal resources if BPA has information that **PacifiCorp** may have made such an export and not notified BPA. BPA may request and **PacifiCorp** shall provide within 30 days of such request,

information on the planned use of any or all of **PacifiCorp** Generating and Contract Resources.

During any Purchase Period that **PacifiCorp** has no purchase obligation for Firm Requirements Power under section 3, **PacifiCorp** shall have no obligation to notify BPA of its exports under this section; provided, however, **PacifiCorp** shall provide notification of all applicable exports in Purchase Periods when it has a purchase obligation.

13.6.2 **PacifiCorp** shall be responsible for monitoring any Firm Power from Generating Resources and Contract Resources it sells in the Region to ensure such Firm Power is planned to be used to serve firm consumer load in the Region.

13.6.3 If **PacifiCorp** fails to report to BPA in accordance with section 13.6.1 above, any of its planned exports for sale outside the Region of Firm Power from a Generating Resource or a Contract Resource that has been used to serve firm consumer load in the Region, and BPA makes a finding that an export which was not reported was made, BPA shall decrement the amount of its Firm Requirements Power sold under this Agreement by the amount of the export that was not reported, and by any continuing export amount. When applicable such decrements shall be identified in section 3.2 of Exhibit A.

13.6.4 For purposes of this section 13.6, an export for sale outside the Region means a contract for the sale or disposition of Firm Power from a Generating Resource, or a Contract Resource during its term, that has been used to serve firm consumer load in the Region, which contract will be performed in a manner that such output is no longer used or not planned to be used solely to serve firm consumer load in the Region. Delivery of Firm Power outside the Region under a seasonal exchange agreement that is made consistent with BPA's section 5(b)/9(c) Policy will not be considered an export. Firm Power from a Generating Resource or a Contract Resource used to serve firm consumer load in the Region means the firm generating or load carrying capability of a Generating Resource or a Contract Resource as established under PNCA resource planning criteria, or other resource planning criteria generally used for such purposes within the Region.

13.7 **BPA Appropriations Refinancing**

The Parties agree that the provisions of section 3201(i) of the Bonneville Power Administration Refinancing section of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (BPA Refinancing Act), P.L. 104-134, 110 Stat. 1321, 350, as stated in the United States Code on the Effective Date, are incorporated by reference and are a material term of this Agreement.

14. STANDARD PROVISIONS

14.1 Amendments

Except where this Agreement explicitly allows for one Party to unilaterally amend a provision or exhibit, no amendment of this Agreement shall be of any force or effect unless set forth in writing and signed by authorized representatives of each Party.

14.2 Entire Agreement and Order of Precedence

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement. The body of this Agreement shall prevail over the exhibits to this Agreement in the event of a conflict.

14.3 Assignment

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

14.4 No Third-Party Beneficiaries

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

14.5 Waivers

No waiver of any provision or breach of this Agreement shall be effective unless such waiver is in writing and signed by the waiving Party, and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other breach of this Agreement.

14.6 BPA Policies

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

14.7 Rate Covenant and Payment Assurance

PacifiCorp agrees that it shall establish, maintain and collect rates or charges sufficient to assure recovery of its costs for power and energy and other services, facilities and commodities sold, furnished or supplied by it through any of its electric utility properties. BPA may require additional

forms of payment assurance if: (1) BPA determines that such rates and charges may not be adequate to provide revenues sufficient to enable **PacifiCorp** to make the payments required under this Agreement, or (2) BPA identifies in a letter to **PacifiCorp** that BPA has other reasonable grounds to conclude that **PacifiCorp** may not be able to make the payments required under this Agreement. If **PacifiCorp** does not provide payment assurance satisfactory to BPA, then BPA may terminate this Agreement. Written notices sent under this section must comply with section 10.

15. TERMINATION

BPA’s Right to Terminate

BPA may terminate this Agreement if:

- (1) **PacifiCorp** fails to make payment as required by section 8.4, or
- (2) **PacifiCorp** fails to provide payment assurance satisfactory to BPA as required by section 14.7.

Such termination is without prejudice to any other remedies available to BPA under law.

16. SIGNATURES

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

PACIFICORP

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By _____
Name _____
(Print/Type)
Title _____
Date _____

By _____
Name Charles W. Forman, Jr.
(Print/Type)
Title Account Executive
Date _____

(PSW/Portland – RD NR Block PacifiCorp 09PB-13206 D5a.DOC) 11/14/08

Exhibit A
NET REQUIREMENTS AND RESOURCES

1. NET REQUIREMENTS

PacifiCorp's Net Requirement equals its Total Retail Load minus **PacifiCorp**'s Dedicated Resources determined pursuant to section 3.4 of the body of this Agreement and listed in sections 2, 3, and 4 of this exhibit. The Parties shall not add or remove resource amounts to change **PacifiCorp**'s purchase obligations from BPA under section 3.1 of the body of this Agreement except in accordance with section 3.5 of the body of this Agreement.

BPA shall annually calculate a forecast of **PacifiCorp**'s Net Requirement for the upcoming Fiscal Year as follows:

1.1 Forecast of Total Retail Load

By September 15, 2011, and by each September 15 thereafter, BPA shall fill in the table below with **PacifiCorp**'s Total Retail Load forecast (submitted pursuant to section 9.5 of the body of this Agreement) for the upcoming Fiscal Year. BPA shall notify **PacifiCorp** by July 31 immediately preceding the start of the Fiscal Year if BPA determines **PacifiCorp**'s submitted forecast is reasonable or not reasonable. If BPA determines **PacifiCorp**'s submitted forecast is not reasonable, then BPA shall fill in the table below with a forecast BPA determines to be reasonable by September 15 immediately preceding the start of the Fiscal Year.

PacifiCorp may submit to arbitration, which may be binding arbitration under a separate agreement or nonbinding arbitration as agreed to by the Parties, pursuant to section 12 of the body of the Agreement the issue of the reasonableness of BPA's forecast of **PacifiCorp**'s Total Retail Load used by BPA to fill in the table below. Such arbitration shall not include issues of the interpretation or application of BPA's policies with respect to such forecast, including without limitation BPA's 5(b)/9(c) Policy.

Annual Forecast of Monthly Total Retail Load													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2012													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2013													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2014													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2015													
Energy (MWh)													
Peak (MW)													

Annual Forecast of Monthly Total Retail Load													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2016													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2017													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2018													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2019													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2020													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2021													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2022													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2023													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2024													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2025													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2026													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2027													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2028													
Energy (MWh)													
Peak (MW)													

Notes: Fill in the table above with megawatt-hours rounded to whole megawatt-hours, with megawatts rounded to one decimal place, and annual Average Megawatts rounded to three decimal places.

1.2 **Forecast of Net Requirements**

By September 15, 2011, and by each September 15 thereafter, BPA shall calculate, and fill in the table below with, **PacifiCorp's** Net Requirement forecast for the upcoming Fiscal Year by month. **PacifiCorp's** Net Requirement forecast equals **PacifiCorp's** Total Retail Load forecast, shown in section 1.1 above, minus **PacifiCorp's** Dedicated Resource amounts, shown in section 5 below. In no event shall **PacifiCorp's** planned Firm Requirements

Power purchased for a Fiscal Year under this Agreement exceed **PacifiCorp's** Net Requirement forecast for the Fiscal Year.

On a planning basis **PacifiCorp** shall serve that portion of its Total Retail Load that is not served with Firm Requirements Power with **PacifiCorp's** Dedicated Resources.

Annual Forecast of Monthly Net Requirements													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2012													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2013													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2014													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2015													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2016													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2017													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2018													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2019													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2020													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2021													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2022													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2023													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2024													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2025													
Energy (MWh)													
Peak (MW)													

Annual Forecast of Monthly Net Requirements													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2026													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2027													
Energy (MWh)													
Peak (MW)													
Fiscal Year 2028													
Energy (MWh)													
Peak (MW)													

Note: Fill in the table above with megawatt-hours rounded to whole megawatt-hours, with megawatts rounded to one decimal place, and annual Average Megawatts rounded to three decimal places.

2. LIST OF SPECIFIED RESOURCES

2.1 Generating Resources

All of **PacifiCorp's** Generating Resources that are Specified Resources are listed below. Pursuant to section 3.4.1.2 of the body of this Agreement, the Parties shall determine Specified Resource amounts, and BPA shall add such amounts to this Exhibit, for each resource listed below by September 30, 2009.

Generating Resource Name	Fuel Type	Date Resource Dedicated to Load	Date of Resource Removal	Statutory Status		Percent of Resource Used to Serve Load	Nameplate Capability (MW)
				5b1A	5b1B		

Specified Resource Amounts													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2012													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2013													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2014													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													

Specified Resource Amounts													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2015													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2016													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2017													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2018													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2019													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2020													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2021													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2022													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2023													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2024													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													

Specified Resource Amounts													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2025													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2026													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2027													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2028													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													

Notes: Fill in the table above with megawatt-hours rounded to whole megawatt-hours, with megawatts rounded to one decimal place, and annual Average Megawatts rounded to three decimal places.

2.2 **Contract Resources**

All of **PacifiCorp's** Contract Resources that are Specified Resources are listed below. Pursuant to section 3.4.1.2 of the body of this Agreement, the Parties shall determine Specified Resource amounts, and BPA shall add such amounts to this Exhibit, for each resource listed below by September 30, 2009.

Contract Resource Name	Fuel Type	Date Resource Dedicated to Load	Date of Resource Removal	Statutory Status		Percent of Resource Used to Serve Load	Nameplate Capability (MW)
				5b1A	5b1B		

Specified Resource Amounts													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2012													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													

Specified Resource Amounts													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2013													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2014													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2015													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2016													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2017													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2018													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2019													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2020													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2021													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2022													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													

Specified Resource Amounts													
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	annual aMW
Fiscal Year 2023													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2024													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2025													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2026													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2027													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													
Fiscal Year 2028													
Total (MWh)													
HLH (MWh)													
LLH (MWh)													
Peak (MW)													

Notes: Fill in the table above with megawatt-hours rounded to whole megawatt-hours, with megawatts rounded to one decimal place, and annual Average Megawatts rounded to three decimal places.

3. UNSPECIFIED RESOURCE AMOUNTS

3.1 Unspecified Resource Amounts Used to Serve Total Retail Load

PacifiCorp does not have any Unspecified Resource Amounts at this time.

3.2 Unspecified Resource Amounts for 9(c) Export Decrements

BPA shall insert a table below pursuant to section 3.5.2 of the body of this Agreement.

4. DEDICATED RESOURCE AMOUNTS FOR AN NLSL

PacifiCorp's NLSLs, if any, are listed in Exhibit B. All of **PacifiCorp**'s Dedicated Resource amounts serving an NLSL, in accordance with section 3.5.5 of the body of this Agreement, are as described in this section 4. **PacifiCorp** elects to serve any and all NLSL(s) with Dedicated Resources. For purposes of this Agreement, the NLSL(s) shall be deemed to be served by Dedicated Resources listed in sections 2 and 3 above

in the amount(s) of the actual load of the NLSL(s) on an hourly, Diurnal, and monthly basis; but nothing in this Agreement shall constitute dedication of any resource for purposes of an Average System Cost determination pursuant to endnote “d” of Attachment A of the 2008 Average System Cost Methodology.

5. TOTAL DEDICATED RESOURCE AMOUNTS

BPA shall insert **PacifiCorp**'s Total Dedicated Resource amounts into this section by September 30, 2009.

6. LIST OF RESOURCES NOT USED TO SERVE TOTAL RETAIL LOAD

Pursuant to section 9 of the body of this Agreement, **PacifiCorp** does not own any Generating Resources or Contract Resources that are (1) not Specified Resources listed in section 2 of Exhibit A, and (2) greater than 200 kilowatts of nameplate capability.

7. REVISIONS

BPA shall revise this exhibit to reflect (1) **PacifiCorp**'s elections regarding the application and use of all resources owned by **PacifiCorp** and **PacifiCorp**'s retail consumers and (2) BPA's determinations relevant to this exhibit and made in accordance with this Agreement.

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Exhibit B
CF/CT, NEW LARGE SINGLE LOADS, AND SPECIAL PROVISIONS

1. CF/CT AND NEW LARGE SINGLE LOADS

1.1 CF/CT Loads

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

- (1) End-use consumer's name: Crown-Zellerbach (now Georgia Pacific)
Facility name: Crown-Zellerbach Millsite (now Georgia Pacific)
Facility location: Camas, Washington
Date of CF/CT determination:
Facility description: Millsite
Amount of firm energy (megawatts at 100 percent load factor) contracted for, or committed to: 76.0 aMW

- (2) End-use consumer's name: Boise Cascade
Facility name: Boise Cascade Wallula Millsite
Facility location: Wallula, Washington
Date of CF/CT determination:
Facility description: Millsite
Amount of firm energy (megawatts at 100 percent load factor) contracted for, or committed to: 61.0 aMW

1.2 Potential NLSLs

PacifiCorp has no identified potential NLSLs.

1.3 Existing NLSLs

1.3 NLSL

PacifiCorp has an NLSL and elects to serve the NLSL with resource amounts in Exhibit A that are not already used to serve any other portion of **PacifiCorp's** Total Retail Load. The Parties shall list such resource amounts in Exhibit A. The Parties shall administer service to the following NLSL consistent with section 13.3 of the body of this Agreement.

1.3.1 Centralia Coal Mine NLSL

End-use consumer name: Centralia Coal Mine
Facility location: near Centralia, Washington
Date load determined as an NLSL: Date of commencement of service by PacifiCorp was at 2400 hours on December 23, 1986; date of BPA's NLSL Determination was September 20, 1988
Approximate load: 10.4 aMW during first 12 months of service by PacifiCorp
Description of NLSL: Electrical coal-processing and coal-transport (conveyor) equipment
Manner of service: Served by PacifiCorp

2. PLACEHOLDER FOR SPECIAL PROVISIONS

None at this time.

3. REVISIONS

This exhibit shall be revised by mutual agreement of the Parties to reflect additional products **PacifiCorp** purchases during the term of this Agreement.

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Exhibit C
SCHEDULING

1. SCHEDULING FEDERAL RESOURCES

PacifiCorp is responsible for creating E-Tags for all deliveries of federal power purchased under this Agreement

2. SCHEDULING OF DEDICATED RESOURCES

During any Purchase Period that **PacifiCorp** has a purchase obligation under section 3 of the body of this Agreement, **PacifiCorp** agrees that, no later than 10 days following the end of each month, it will electronically copy Power Services on all electronic tags that were created or modified during the previous month in association with the delivery of **PacifiCorp**'s Dedicated Resources, if any, listed in sections 2, 3, and 4 of Exhibit A.

3. AFTER THE FACT

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

4. REVISIONS

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

Revisions are effective 45 days after BPA provides written notice of the revisions to **PacifiCorp** unless, in BPA's sole judgment, less notice is necessary to comply with an emergency change to the requirements of the WECC, NAESB, NERC, or their successors or assigns. In this case, BPA shall specify the effective date of such revisions.

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Exhibit D METERING

1. DESCRIPTION OF INTERCHANGE METERS

Although the following interchange meters are not necessary in order to prepare PacifiCorp's power bills, inclusion of this information will help both Parties administer this Agreement. Information about the points of interchange and meter to interchange relationships are useful in providing the Parties a better understanding of the scope of PacifiCorp's and BPA's Balancing Authority Areas and assist both Parties in administration of this Agreement. This information will also help BPA review its forecasting assumptions.

- 1.1 **Name of Interchange Point:** Reston INTERCHANGE
Owner of Meter: BPA;

Meter Location: in Dixonville Substation connected to the 230 kV circuit over which such electric power flows;

- 1.2 **Name of Interchange Point:** Troutdale INTERCHANGE
Owner of Meter: BPA;

Meter Location: in Troutdale Substation connected to the 230 kV circuit over which such electric power flows.

2. REVISIONS

Each Party shall notify the other in writing if updates to this exhibit are necessary to accurately reflect the actual characteristics of meter information described in this exhibit. The Parties shall revise this exhibit to reflect such changes. The Parties shall mutually agree on any such exhibit revisions and agreement shall not be unreasonably withheld or delayed. The effective date of any exhibit revision shall be the date the actual circumstances described by the revision occur.

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