

July 19, 2023

**VIA E-TARIFF**

The Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: *PacifiCorp*, Second Amended and Restated Midpoint-Meridian Agreement  
Docket No. ER23-\_\_\_-000**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”),<sup>1</sup> Section 35 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) Rules of Practice and Procedure,<sup>2</sup> PacifiCorp hereby tenders for filing the following:

Second Amended and Restated Midpoint-Meridian Agreement between PacifiCorp and the Bonneville Power Administration (“Bonneville”) (collectively, the “Parties”), to be designated as Second Revised PacifiCorp Rate Schedule No. 369 (“Second Amended Agreement”).

The Midpoint-Meridian Agreement predates Order No. 888 and, as relevant to this amendment, involves the conversion of legacy transmission service that has historically been provided over Bonneville-owned facilities, which the Parties have agreed to convert to Point-to-Point transmission service under Bonneville’s Open Access Transmission Tariff (“Bonneville Tariff”) pursuant to the terms of the Second Amended Agreement executed on March 22, 2023.

**I. BACKGROUND**

**A. PacifiCorp**

PacifiCorp is an Oregon corporation and an indirect, wholly owned subsidiary of Berkshire Hathaway Energy Company (“BHE”).<sup>3</sup> PacifiCorp is a vertically-integrated public utility primarily engaged in providing retail electric service to approximately 1.9 million residential, commercial, industrial, and other customers in portions of the following states: California, Idaho, Oregon, Utah, Washington, and Wyoming. PacifiCorp provides electric transmission service in ten Western states and owns or has interests in approximately 16,500 miles of transmission lines and 71 thermal, hydroelectric, wind-powered generating, and geothermal facilities. PacifiCorp provides open access transmission service in accordance with its OATT, which is on file with the

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<sup>1</sup> 16 U.S.C. § 824d (2018).

<sup>2</sup> 18 C.F.R. Part 35 (2023).

<sup>3</sup> See *Silver Merger Sub, Inc.*, 145 FERC ¶ 61,261 (2013) (order authorizing merger of NV Energy, Inc. and a BHE subsidiary).

Commission. PacifiCorp operates two balancing authority areas, PacifiCorp East and PacifiCorp West.

## **B. Bonneville**

Bonneville is a federal power marketing administration that markets electric power from 31 federal hydroelectric projects and some non-federal projects. Bonneville sells wholesale power to meet the firm requirements of certain utility and federal agency customers in the Pacific Northwest, including public utility districts, municipal utilities, and cooperative utilities. In addition, Bonneville operates over 15,000 miles of high-voltage transmission lines in the Pacific Northwest.

## **C. PacifiCorp Rate Schedule No. 369: Midpoint-Meridian Agreement**

The Midpoint-Meridian Agreement is a pre-Order No. 888 agreement, which Bonneville and PacifiCorp executed in 1994 to memorialize the Parties' intended use and coordination of certain Bonneville-owned and PacifiCorp-owned transmission facilities in Oregon and Idaho. The last amendment to the agreement was filed with and accepted by the Commission with an effective date of February 8, 2022 ("First Amended Agreement").<sup>4</sup> That First Amended Agreement reflected the conversion of 600 MW of legacy transmission service from Bonneville to PacifiCorp's merchant function to point-to-point service under Bonneville's Tariff. As noted below, the changes in this Second Amended Agreement similarly reflect the anticipated conversion of additional PacifiCorp merchant function transmission rights to point-to-point service under Bonneville's Tariff.

The Second Amended Agreement is being submitted in connection with various other filings related to the development of the Boardman to Hemmingway transmission project ("B2H Project"), a regionally significant 300-mile-long 500-kV electric transmission line being developed by PacifiCorp and Idaho Power Company ("Idaho Power") in the Pacific Northwest. Among these filings is a joint purchase and sale agreement ("JPSA") between PacifiCorp and Idaho Power, which is being concurrently-filed with the Commission through a joint FPA Section 203 Application. Commission acceptance or approval of the enclosed Second Amended Agreement is a condition precedent to closing of the JPSA.

## **II. REVISIONS TO RATE SCHEDULE NO. 369**

As noted above, the Parties have amended the Midpoint-Meridian agreement a second time to reflect the intended conversion of certain legacy transmission service provided over Bonneville-owned facilities. Following closing of the JPSA and energization of the B2H Project (anticipated for June 2026), this legacy transmission service currently provided under the Midpoint-Meridian agreement will be converted to Point-to-Point transmission service under Bonneville's Tariff.

As with the First Amended and Restated Midpoint-Meridian Agreement, the changes made by the Parties in this second amendment seek only to remove legacy service provided to PacifiCorp over Bonneville facilities. Accordingly, the Parties made the following changes to the agreement

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<sup>4</sup> See *PacifiCorp*, Docket No. ER22-632-000 (Feb. 8, 2022) (delegated letter order).

to remove this legacy PacifiCorp service but otherwise preserve Bonneville's remaining legacy service under the agreement:

- The recitals have been updated to more accurately reflect the chronology of events leading up to the Second Amended Agreement;
- Section 1 has been revised to remove the definition of "workday," which is no longer used in the agreement;
- Section 2 has been updated to reflect conditions to effectiveness of the agreement, at which point the Second Amended Agreement will supersede the First Amended Agreement;
- Section 3 has been amended to strike Exhibit A, which pertains to the legacy transmission service being removed from the agreement;
- Section 4 has been amended to remove references to the legacy transmission service while preserving Bonneville's existing legacy rights under the agreement;
- Section 5 has been amended to strike subsection (d), which pertains to outdated scheduling provisions related to losses;
- Section 6 has been amended to remove outdated scheduling provisions and incorporate current scheduling requirements, which confirms with PacifiCorp's OATT;
- Section 7 has been amended to incorporate Notice information for the Parties;
- Sections 8 and 9 have been amended to add standard Bonneville assignment and choice-of-law provisions;
- Section 11 has been amended to reflect that the Second Amended Agreement has superseded prior agreements governing transfers over the facilities in question; and
- Sections 12 through 19 include new miscellaneous provisions standard to most contracts with Bonneville.

As with the First Amended and Restated Midpoint-Meridian Agreement, the above-described changes are necessary to effectuate the removal and conversion of legacy PacifiCorp service to more standardized Bonneville Tariff service, while preserving Bonneville's existing service under the agreement. Accordingly, the changes here are just and reasonable and consistent with Commission precedent regarding changes to legacy agreements to account for changed circumstances.<sup>5</sup>

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<sup>5</sup> See, e.g., *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Public Utils. & Transmitting Utils.*, Order No. 888, Order No. 888-A,

### III. EFFECTIVE DATE AND REQUEST FOR WAIVER

According to Section 2 of the Second Amended Agreement, the agreement will not become effective until, among other preconditions, the JPSA closes and the B2H Project is energized. As of the date of this filing, the date that the JPSA will close and the B2H Project will be energized is currently unknown, although it is currently anticipated to be in June 2026. To bring important certainty to the JPSA and B2H construction arrangements, PacifiCorp requests waiver of 18 C.F.R. § 35.3(a)(1) of the Commission's regulations so as to permit the Second Amended Agreement to be submitted more than 120-days before it would become effective. Good cause exists to grant waiver of this requirement because Commission acceptance of the Second Amended Agreement is a condition precedent to closing of the JPSA, and therefore, this agreement and other B2H-related agreements cannot be filed after closing, nor can the closing date be known at the time this agreement is filed.

Accordingly, PacifiCorp is submitting the Second Amended Agreement with a requested effective date of "December 31, 9998."<sup>6</sup> PacifiCorp proposes to make a follow-up e-Tariff compliance filing of the accepted Second Amended Agreement within 10 days of closing the JPSA (which will coincide with the commencement of PacifiCorp's replacement service from Bonneville and B2H energization) to amend the December 31, 9998 effective date to the actual closing date of the JPSA. PacifiCorp requests that the Commission accept for filing the Second Amended Agreement subject only to the condition that PacifiCorp subsequently submit notification to the Commission that either (i) the JPSA closed, in which case the Second Amended Agreement will become effective as of the date of closing; or (ii) the JPSA did not close, in which case the Second Amended Agreement is deemed to be withdrawn.

Finally, PacifiCorp respectfully requests that the Commission waive any portion of Part 35 of the Commission's regulations, which has not been satisfied by this filing.

### IV. COMMUNICATIONS

Communications with respect to this filing should be sent to the following individuals. PacifiCorp respectfully requests waiver of Rule 203(b)(3) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3), to permit all persons listed to be placed on the official service list for this proceeding.

Thomas Woodworth  
Assistant General Counsel  
PacifiCorp  
825 N.E. Multnomah, Suite 2000

Rick Vail  
Vice President of Transmission  
PacifiCorp  
825 NE Multnomah, Suite 1600

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FERC Stats. & Regs. P 31,048 at 30,178 (1996) (cross-referenced at 78 FERC ¶ 61,220) (subsequent history omitted); *S.C. Elec. & Gas Co.*, 162 FERC ¶ 61,024 at P 16 (2018).

<sup>6</sup> See *Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filings* at 10 (Nov. 14, 2016) ("If the effective date is not known at the time of the filing, such as the effective date is contingent on FERC approval, the closing of a plant sale, etc., the date of 12/31/9998 must be used."), <https://www.ferc.gov/sites/default/files/2020-05/implementation-guide.pdf>. See also *Darby Power, LLC*, 157 FERC ¶ 61,215 at P 6, n.7 (2016).

Ms. Kimberly D. Bose  
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(503) 813-5356  
Thomas.Woodworth@PacifiCorp.com

Portland OR 97232  
(503) 813-6938  
Richard.Vail@PacifiCorp.com

## V. NOTICE

A copy of this filing is being served on the following:

Sarah Kutil  
Assistant General Counsel  
Transmission  
Bonneville Power Administration  
PO Box 3621, LT-7  
Portland, OR 97208  
smkutil@bpa.gov

Public Utility Commission of Oregon  
P.O. Box 1088  
Salem, OR 97308  
PUC.FilingCenter@state.or.us

## VI. ADDITIONAL INFORMATION

The following materials are included with this letter:

- Attachment A: A clean version of the Second Amended Agreement; and
- Attachment B: A redline denoting the changes between the First Amended Agreement and the Second Amended Agreement.

## VII. CONCLUSION

Wherefore, for the reasons discussed herein, PacifiCorp respectfully requests that the Commission accept the Second Amended Agreement with the effective date requested above.

Respectfully submitted,

/s/ Thomas Woodworth  
Thomas Woodworth  
Assistant General Counsel  
PacifiCorp  
825 NE Multnomah St, Suite 2000  
Portland, OR 97232  
503-813-5356  
[Thomas.Woodworth@PacifiCorp.com](mailto:Thomas.Woodworth@PacifiCorp.com)

*Counsel for PacifiCorp*

Enclosures

**ATTACHMENT A**

**Clean Version**

**PacifiCorp Rate Schedule No. 369**

DE-MS79-94BP94333

**SECOND AMENDED AND RESTATED MIDPOINT-MERIDIAN TRANSMISSION  
AGREEMENT**

**executed by the**

**UNITED STATES OF AMERICA**

**DEPARTMENT OF ENERGY**

**acting by and through the**

**BONNEVILLE POWER ADMINISTRATION**

**and**

**PACIFICORP**

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This Second Amended and Restated Midpoint-Meridian Transmission Agreement (“Agreement”) executed March 24, 2023, by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (“Bonneville”), and PacifiCorp (“PacifiCorp”), a corporation organized and existing under the laws of the State of Oregon, (hereinafter referred to individually as “Party” and collectively as “Parties.”

WITNESSETH

WHEREAS on June 1, 1994, the Parties entered into the Midpoint-Meridian Transmission Agreement (Contract No. DE-MS79-94BP94333), hereinafter referred to as the “1994 Midpoint-Meridian Agreement.” The 1994 Midpoint-Meridian Agreement superseded and replaced the Midpoint-Medford Transmission Agreement (Contract No. DE-MS79-79BP90091), as amended, and incorporated terms set forth in an Agreement of Principles, dated May 28, 1993, which provided, among other things, for the revision of certain terms and conditions in the Intertie Agreement (Contract No. DE-MS79-86BP92299) and the Midpoint-Medford Agreement; and

WHEREAS the Parties have entered into the AC Intertie Agreement (Contract No. DE-MS79-94BP94332), as amended, which hereinafter is referred to as “AC Intertie Agreement” which replaces and supersedes the Intertie Agreement; and

WHEREAS PacifiCorp has constructed and owns a 500 kV transmission line from Midpoint Substation to Meridian Substation (“Midpoint-Meridian Line”), to transmit electric power and energy from resources which it owned or which were under construction by PacifiCorp, as of September 2, 1977, in Wyoming and adjacent states (“PacifiCorp’s Eastern System”) to the Pacific Northwest; and

WHEREAS the Midpoint-Meridian Line consists of three segments hereinafter referred to as “Midpoint-Summer Lake Line”, “Summer Lake-Malin Line” and “Malin-Meridian Line”; and

WHEREAS PacifiCorp has constructed a 500 kV transmission line from the interconnection with Bonneville at Alvey Substation to Meridian Substation (“Alvey-Meridian Line”) which is jointly owned by PacifiCorp and Bonneville; and

WHEREAS the Midpoint-Meridian Line is interconnected with the Alvey-Meridian Line at Meridian Substation; and

WHEREAS the Midpoint-Meridian Line is interconnected with the Federal Transmission System and the AC Intertie; and

WHEREAS the Midpoint-Meridian Line is interconnected with the California-Oregon Transmission Project at Captain Jack Substation; and

WHEREAS Bonneville has constructed a 500 kV transmission line from the Government’s Buckley Substation to its Summer Lake Substation (“Buckley-Summer Lake Line”) to interconnect with PacifiCorp’s Midpoint-Meridian Line at Summer Lake Substation; and

WHEREAS under Section 5 of the 1994 Midpoint-Meridian Agreement, Bonneville agreed to provide PacifiCorp transmission service over the Federal Transmission System and to provide additional transmission services to PacifiCorp at times of abnormal operations of the Midpoint-Summer Lake Line and the Summer Lake-Malin Line (“Midpoint-Malin Line”); and

WHEREAS under Section 4 of the 1994 Midpoint-Meridian Agreement, the Parties agreed to exchange rights to capacity in the Buckley-Summer Lake Line and Summer Lake-Malin Line; the amounts PacifiCorp scheduled over the Buckley-Summer Lake Line were subject to the terms of the Exchange Agreement (Contract No. 14-03-29245) as amended (“Exchange Agreement”), which provided, among other things, for points of delivery, scheduling arrangements and an energy exchange account; and

WHEREAS the Parties have entered into the Malin Operation and Maintenance Trust Agreement (Contract No. 14-03-62876), as amended (which hereinafter is referred to as “Operation and Maintenance Agreement”) and which provides, among other things, for the operation and maintenance of certain facilities at Malin Substation; and

WHEREAS on November 30, 2021, Bonneville and PacifiCorp entered into Tables 232, 233, 234, 235, 236, 239 of Point-to-Point Contract No. 04TX-11722, as such contract may be amended from time to time, which replaced and superseded the transmission services provided under Section 5 and associated terms, conditions and exhibits of the 1994 Midpoint-Meridian Agreement; and

WHEREAS on December 1, 2021, to reflect the aforementioned conversion of service under Section 5 and associated terms, conditions and exhibits and to retain Section 4 of the 1994 Midpoint-Meridian Agreement, the Parties entered into the Amended and Restated Midpoint-Meridian Agreement, (“First Amended and Restated Midpoint-Meridian Agreement”); and

WHEREAS, on January 18, 2022, Bonneville, PacifiCorp, and Idaho Power Company entered into a non-binding Term Sheet, Contract No. 22TX-17207, (“B2H Term Sheet”) regarding the proposed Boardman to Hemingway Transmission Project (“B2H Project”), which, in addition to other terms, described Bonneville and PacifiCorp’s intent to replace PacifiCorp’s rights to capacity in the Buckley-Summer Lake Line in Section 4 of the First Amended and Restated Midpoint-Meridian Agreement with Point-to-Point service provided by Bonneville to PacifiCorp; and

WHEREAS the Parties negotiated the contracts agreed as necessary that were contemplated in the B2H Term Sheet, including this Second Amended and Restated Midpoint-Meridian Agreement and related Point-to-Point tables in Point-to-Point Contract No. 04TX-11722; and

WHEREAS, on March 22, 2023, Bonneville and PacifiCorp entered into Tables 250, 251, 252, 253, 254, and 255 of Point-to-Point Contract No. 04TX-11722, which replaces and supersedes the rights to capacity in the Buckley-Summer Lake Line provided to PacifiCorp under Section 4(a) and associated terms and conditions of the First Amended and Restated Midpoint-Meridian Agreement; and

WHEREAS the Parties desire to supersede and replace the First Amended and Restated Midpoint-Meridian Agreement with this Second Amended and Restated Midpoint-Meridian Agreement to reflect the aforementioned conversion of service under Section 4(a) of the First Amended and Restated Midpoint-Meridian Agreement to Bonneville point-to-point service; and

WHEREAS Bonneville is authorized pursuant to law to dispose of electric power and energy generated at various Federal hydroelectric projects in the Pacific Northwest, or acquired from other resources, to construct and operate transmission facilities, to provide transmission and other services, and to enter into agreements to carry out such authority.

NOW, THEREFORE, the Parties hereto mutually agree as follows;

1. Definition and Explanation of Terms.

- (a) “AC Intertie” means Bonneville’s rights in the alternating current (“AC”) transmission facilities for transferring power and energy between Oregon and California as follows: two 500 kV lines extending from John Day Substation to Malin Substation and to the California-Oregon Border; portions of John Day, Grizzly, and Malin Substations and the Sand Springs, Fort Rock, and Sycan Compensation Stations; a portion of the Buckley-Summer Lake 500 kV transmission line and associated substations; portions of the Buckley-Marion and Marion-Alvey 500 kV transmission lines and associated facilities; Bonneville’s capacity rights in the Summer Lake-Malin 500 kV transmission line; Bonneville’s share of ownership of the Alvey-Dixonville and Dixonville-Meridian 500 kV transmission lines; portions of the Alvey, Dixonville, Meridian and Captain Jack Substations; the 500 kV transmission line extending from Captain Jack Substation to the California-Oregon Border; and any modifications, improvements, or additions to such facilities.
- (b) “Federal Transmission System” means transmission facilities owned by Bonneville.

2. Term of Agreement. This Agreement shall be effective and shall supersede the First Amended and Restated Midpoint-Meridian Agreement upon satisfaction of all of the following conditions: (a) execution by the Parties; (b) approval or acceptance of this Agreement for filing without change by the Federal Energy Regulatory Commission for a term coincident with the AC Intertie Agreement; (c) satisfaction of all conditions precedent in the Joint Purchase and Sale Agreement (“JPSA”) between PacifiCorp and Idaho Power Company to transfer certain transmission facilities related to the Boardman to Hemingway Transmission Project (“B2H Project”) in accordance with the terms of the JPSA, including the development, construction and energization of the B2H Project; and (d) satisfaction of all conditions precedent in Point-to-Point Contract No. 04TX-11722, Tables 250, 251, 252, 253, 254, and 255 in accordance with the terms thereof. Upon termination of this Agreement, all liabilities accrued hereunder shall be and are hereby preserved until satisfied.

3. [Intentionally Omitted.]

4. Right to Use Transmission Capacity.

- (a) Summer Lake-Malin. During the term hereof, Bonneville shall have the use of 1000 megawatts of bi-directional scheduling capability above PacifiCorp's 1000 megawatts of capability in the Summer Lake-Malin Line. Such rights of use shall include PacifiCorp's terminal facilities in the Summer Lake and Malin Substations. PacifiCorp shall be responsible for the capital and annual costs of two 500 kV line terminal positions at Summer Lake Substation, including two power circuit breakers, and the additions required at Malin Substation in accordance with the Operation and Maintenance Agreement; provided, however, that Bonneville will operate all such equipment at PacifiCorp's expense. Bonneville shall be responsible for all other facilities at Summer Lake and, with other owners of the AC Intertie, for the facilities to connect Buckley to the AC Intertie. Use of the capacity in the Summer Lake-Malin Line by Bonneville shall be subject to availability, as determined by PacifiCorp, and shall be subject to payment and loss provisions agreed upon by the Parties. The Parties shall be compensated for balancing authority area electric power losses pursuant to Section 8 of the AC Intertie Agreement.
- (b) [Intentionally Omitted]
- (c) Bonneville's Right to Obtain Additional Summer Lake-Midpoint Capacity. During the term of this Agreement, Bonneville shall have the option to acquire up to 400 megawatts of eastbound firm scheduling rights over the Midpoint-Summer Lake Line and an option to tap such line to serve loads and for interregional transfers. If Bonneville exercises its option to acquire up to 400 megawatts of eastbound firm scheduling rights over the Midpoint-Summer Lake Line, Bonneville shall pay PacifiCorp based upon PacifiCorp's then-effective applicable FERC filed tariff for firm transmission services. If Bonneville exercises this option, during periods when the eastbound capability of the Midpoint-Summer Lake Line is reduced, Bonneville's eastbound scheduling rights shall be reduced pro-rata with such reduction. However, during periods when transfer capability is reduced, PacifiCorp shall provide Bonneville the right to use PacifiCorp's capability not required for PacifiCorp's firm need, as determined by PacifiCorp, at no additional cost. In the event Bonneville wishes to tap the Midpoint-Summer Lake Line, Bonneville and PacifiCorp shall mutually develop the plan of service for such tap. Such tap shall not degrade or reduce PacifiCorp's East to West transfer capability on the Midpoint-Malin Line or reduce PacifiCorp's Load Carrying Capability as defined in the AC Intertie Agreement. Unless otherwise mutually agreed, Bonneville shall be responsible for all costs associated with any such tap. Unless otherwise mutually agreed, such tap shall not increase Bonneville's eastbound transfer rights on the Midpoint-Summer Lake Line.

5. Transmission of Electric Power and Energy.

- (a) [Intentionally Omitted]

- (b) [Intentionally Omitted]
- (c) [Intentionally Omitted]
- (d) [Intentionally Omitted]
- (e) [Intentionally Omitted]
- (f) PacifiCorp shall not transmit electric power and energy west to east over the Midpoint-Meridian Line, or any segment thereof, in a manner which will adversely impact the operation of the Federal Transmission System or the AC Intertie. The determination of an adverse impact shall be made by Bonneville.

6. Scheduling. Unless otherwise agreed by the Parties, schedules for electric energy and losses under Section 4(a) shall be in accordance with AC Intertie scheduling practices. Schedules for electric energy and losses under Section 4(c) shall be in accordance with PacifiCorp's scheduling practices and Open Access Transmission Tariff.
7. Notices. Any notice or other communication related to this Agreement shall be delivered in person, or with proof of receipt by email, facsimile, First Class mail or overnight delivery service. Notices are effective on the date received. Either Party may change the contact information by providing notice to the other Party as provided below:

**To PacifiCorp:**

825 NE Multnomah Street, Suite 1600  
Portland, OR 97232  
Transmission Services  
Attention: Rick Vail  
Title: Vice President  
Phone: (503) 813-6938

Email:Richard.Vail@pacificorp.com

**To Bonneville Power Administration:**

Attention: Transmission Account Executive for PacifiCorp — TSE/TPP-2  
Phone: (360) 619-6016  
Fax: (360) 619-6940  
Email: txsalescontracts@bpa.gov

**By First Class Mail:**

Bonneville Power Administration  
P.O. Box 61409  
Vancouver, WA 98666

8. Assignment. This Agreement is binding on any successors and permitted assigns of the Parties. Neither Party may transfer or assign this Agreement, in whole or in part, without the other Party's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed), except that, after thirty (30) days written notice to the other Party, either Party may assign this Agreement to any: (i) affiliate, (ii) successor in interest, or (iii) corporation or any other business entity acquiring all or substantially all of the assets of the assigning Party.
9. Choice of Law and Forum. This Agreement shall be interpreted, construed, enforced and implemented pursuant to Federal law. The forum for litigation arising from this contract shall exclusively be a Federal court of the United States, unless the Parties agree to pursue alternative dispute resolution.
10. Reactive Power. The Parties shall jointly plan and operate their systems so that the flow of reactive power accompanying or resulting from deliveries of electric power and energy hereunder will not adversely affect the system of either Party.
11. Termination of Agreement. The Parties agree that the 1994 Midpoint-Meridian Transmission Agreement superseded and terminated in its entirety the Midpoint-Medford Agreement, Contract No. DE-MS79-79BP90091, that the First Amended and Restated Midpoint-Meridian Agreement superseded and terminated in its entirety the 1994 Midpoint-Meridian Transmission Agreement, and that this Agreement is superseding and terminating in its entirety the First Amended and Restated Midpoint-Meridian Agreement; provided, however, that any liabilities incurred under the Midpoint-Medford Agreement, the 1994 Midpoint-Meridian Transmission Agreement, or the First Amended and Restated Midpoint-Meridian Agreement are hereby preserved until satisfied.
12. Rules of Interpretation. The Parties agree that each Party fully participated in the drafting of each provision of this Agreement. The rule of law interpreting ambiguities against the drafting Party shall not be applicable or utilized in resolving any dispute over the meaning or intent of this Agreement or any of its provisions.
13. Amendments. The Parties may by mutual agreement amend this Agreement through a written instrument signed by authorized representatives of each Party. Notwithstanding the forgoing, neither Party relinquishes its rights under applicable law.
14. Relationship of the Parties. Neither Party is the agent or principal of the other, nor are they partners or joint venturers. Each Party agrees that it will not represent that, in performing its obligations hereunder, it acts in the capacity of agent or principal of the other Party, nor that it is a partner or joint venturer with the other Party with respect to the subject matter of this Agreement.
15. Section Headings. Section headings and subheadings appearing in this Agreement are inserted for convenience only and are not to be construed as interpretations of text.
16. Several Obligations. Except where specifically stated in this Agreement, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective.

17. 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.
  
18. Dispute Resolution. In the event that either Party has a dispute that arises out of this Agreement, such Party shall provide the other Party with written notice of the dispute, which will be referred to a designated senior representative for each Party for resolution on an informal basis as promptly as practicable after receipt of the notice of dispute by the other Party. In the event the designated representatives are unable to resolve the dispute within thirty (30) calendar days of the other Party's receipt of the notice of dispute, such dispute may, upon mutual agreement of the Parties, be submitted to arbitration. In the event the Parties do not agree to submit such dispute to arbitration, each Party may exercise whatever rights and remedies it may have at law. Each Party shall be responsible for its own costs incurred.
  
19. Signatures. This Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement, and may be executed by electronic signature and delivered electronically. The Parties have executed this Agreement as of the last date indicated below.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

PACIFICORP

UNITED STATES OF AMERICA

Department of Energy  
Bonneville Power Administration

By: /s/ Rick Vail

By: /s/ Eric Carter

Title: Vice President

Title: Senior Transmission Account Executive

If opting out of the electronic signature:

By:

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT B**

**Marked Version**

**PacifiCorp Rate Schedule No. 369**



DE-MS79-94BP94333

**SECOND AMENDED AND RESTATED MIDPOINT-MERIDIAN TRANSMISSION  
AGREEMENT  
executed by the  
UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
acting by and through the  
BONNEVILLE POWER ADMINISTRATION  
and  
PACIFICORP**

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### **Exhibit A (General Wheeling Provisions [GWP Form 4R])**

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This Second Amended and Restated Midpoint-Meridian Transmission Agreement (“Agreement”) executed ~~December 1~~March 24, 20213, by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (“Bonneville”),2 and PacifiCorp (“PacifiCorp”), a corporation organized and existing under the laws of the State of Oregon, (hereinafter referred to individually as “Party” and collectively as “Parties”).”3

WITNESSETH

WHEREAS on June 1, 1994, the Parties entered into the Midpoint-Meridian Transmission Agreement ~~on June 1, 1994~~,(Contract No. DE-MS79-94BP94333), hereinafter referred to as the “1994 Midpoint-Meridian Agreement.” The 1994 Midpoint-Meridian Agreement superseded and replaced the Midpoint-Medford Transmission Agreement (Contract No. DE-MS79-79BP90091), as amended, and incorporated terms set forth in an Agreement of Principles, dated May 28, 1993;~~and~~

, which provided,

~~WHEREAS the Parties have entered into the Intertie Agreement (Contract No. DE-MS79-86BP92299), as amended, which hereinafter is referred to as “Intertie Agreement”; and~~

~~WHEREAS the Parties have entered into the Transmission Agreement (Contract No. DE-MS79-79BP90091), as amended, which hereinafter is referred to as “Midpoint-Medford Agreement”; and~~

~~WHEREAS the Parties have entered into an Agreement of Principles, dated May 28, 1993, which hereinafter is referred to as “Letter of Understanding” and which provides, among other things, for the revision of certain terms and conditions in the Intertie Agreement (Contract No. DE-MS79-86BP92299) and the Midpoint-Medford Agreement; and~~

WHEREAS the Parties have entered into the AC Intertie Agreement (Contract No. DE-MS79-94BP94332), as amended, which hereinafter is referred to as “AC Intertie Agreement” which replaces and supersedes the Intertie Agreement; and

~~WHEREAS the Parties replaced and superseded the Midpoint-Medford Agreement with the 1994 Midpoint-Meridian Agreement; and~~

WHEREAS PacifiCorp has constructed and owns a 500 kV transmission line from Midpoint Substation to Meridian Substation (“Midpoint-Meridian Line”), to transmit electric power and energy from resources which it owned or which were under construction by PacifiCorp, as of September 2, 1977, in Wyoming and adjacent states (“PacifiCorp’s Eastern System”) to the Pacific Northwest; and

WHEREAS the Midpoint-Meridian Line consists of three segments hereinafter referred to as “Midpoint-Summer Lake Line”, “Summer Lake-Malin Line” and “Malin-Meridian Line”; and

WHEREAS PacifiCorp has constructed a 500 kV transmission line from the interconnection with Bonneville at Alvey Substation to Meridian Substation (“Alvey-Meridian Line”) which is jointly owned by PacifiCorp and Bonneville; and

WHEREAS the Midpoint-Meridian Line is interconnected with the Alvey-Meridian Line at Meridian Substation; and

WHEREAS the Midpoint-Meridian Line is interconnected with the Federal Transmission System and the AC Intertie; and

WHEREAS the Midpoint-Meridian Line is interconnected with the California-Oregon Transmission Project at Captain Jack Substation; and

WHEREAS Bonneville has constructed a 500 kV transmission line from the Government’s Buckley Substation to its Summer Lake Substation (“Buckley-Summer Lake Line”) to interconnect with PacifiCorp’s Midpoint-Meridian Line at Summer Lake Substation; and

WHEREAS under [Section 5 of](#) the 1994 Midpoint-Meridian Agreement, Bonneville agreed to provide PacifiCorp transmission service over the Federal Transmission System; and

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~~Amended and Restated Midpoint Meridian Transmission Agreement~~

~~WHEREAS under the 1994 Midpoint Meridian Agreement, Bonneville agreed to provide additional transmission services to PacifiCorp at times of abnormal operations of the Midpoint-Summer Lake Line and the Summer Lake-Malin Line (“Midpoint-Malin Line”); and~~

WHEREAS under Section 4 of the 1994 Midpoint-Meridian Agreement, the Parties agreed to exchange rights to capacity in the Buckley-Summer Lake Line and Summer Lake-Malin Line; the amounts PacifiCorp scheduled over the Buckley-Summer Lake Line were subject to the terms of the Exchange Agreement (Contract No. 14-03-29245) as amended (“Exchange Agreement”), which provided, among other things, for points of delivery, scheduling arrangements and an energy exchange account; and

~~WHEREAS Bonneville and PacifiCorp have entered into Point to Point Contract No. 04TX-11722, as such contract may be amended from time to time, which replaces and supersedes the transmission services provided under Section 5 and associated terms, conditions and exhibits of the 1994 Midpoint Meridian Agreement; and~~

~~WHEREAS the Parties desire to supersede and replace the 1994 Midpoint Meridian Agreement with this Amended and Restated Midpoint Meridian Agreement to reflect the aforementioned conversion of service under Section 5 of this legacy agreement to BPA point-to-point transmission service; and~~

WHEREAS the Parties have entered into the Malin Operation and Maintenance Trust Agreement (Contract No. 14-03-62876), as amended (which hereinafter is referred to as “Operation and Maintenance Agreement”) and which provides, among other things, for the operation and maintenance of certain facilities at Malin Substation; and

~~WHEREAS Bonneville has constructed a 500 kV transmission line from the Government's Buckley Substation to its Summer Lake Substation (“Buckley Summer Lake Line”) to interconnect with PacifiCorp's Midpoint Meridian Line at Summer Lake Substation, and the Parties have agreed to exchange rights to capacity in the Buckley Summer Lake Line and Summer Lake Malin Line; and~~

WHEREAS on November 30, 2021, Bonneville and PacifiCorp entered into Tables 232, 233, 234, 235, 236, 239 of Point-to-Point Contract No. 04TX-11722, as such contract may be amended from time to time, which replaced and superseded the transmission services provided under Section 5 and associated terms, conditions and exhibits of the 1994 Midpoint-Meridian Agreement; and

WHEREAS on December 1, 2021, to reflect the aforementioned conversion of service under Section 5 and associated terms, conditions and exhibits and to retain Section 4 of the 1994 Midpoint-Meridian Agreement, the Parties entered into the Amended and Restated Midpoint-Meridian Agreement, (“First Amended and Restated Midpoint-Meridian Agreement”); and

WHEREAS, on January 18, 2022, Bonneville, PacifiCorp, and Idaho Power Company entered into a non-binding Term Sheet, Contract No. 22TX-17207, (“B2H Term Sheet”) regarding the proposed Boardman to Hemingway Transmission Project (“B2H Project”), which, in addition to other terms, described Bonneville and PacifiCorp’s intent to replace PacifiCorp’s rights to capacity in the Buckley-Summer Lake Line in Section 4 of the First Amended and

Restated Midpoint-Meridian Agreement with Point-to-Point service provided by Bonneville to PacifiCorp; and

~~WHEREAS the Parties entered into the Exchange Agreement~~

WHEREAS the Parties negotiated the contracts agreed as necessary that were contemplated in the B2H Term Sheet, including this Second Amended and Restated Midpoint-Meridian Agreement and related Point-to-Point tables in Point-to-Point Contract No. 04TX-11722; and

~~(Contract No. 14-03-29245) as amended or replaced which is hereinafter referred to as "Exchange Agreement," and which provided, among other things, for points of delivery, scheduling arrangements and an energy exchange account; and~~

WHEREAS, on March 22, 2023, Bonneville and PacifiCorp entered into Tables 250, 251, 252, 253, 254, and 255 of Point-to-Point Contract No. 04TX-11722, which replaces and supersedes the rights to capacity in the Buckley-Summer Lake Line provided to PacifiCorp under Section 4(a) and associated terms and conditions of the First Amended and Restated Midpoint-Meridian Agreement; and

WHEREAS the Parties desire to supersede and replace the First Amended and Restated Midpoint-Meridian Agreement with this Second Amended and Restated Midpoint-Meridian Agreement to reflect the aforementioned conversion of service under Section 4(a) of the First Amended and Restated Midpoint-Meridian Agreement to Bonneville point-to-point service; and

WHEREAS Bonneville is authorized pursuant to law to dispose of electric power and energy generated at various Federal hydroelectric projects in the Pacific Northwest, or acquired from other resources, to construct and operate transmission facilities, to provide transmission and other services, and to enter into agreements to carry out such authority;

NOW, THEREFORE, the Parties hereto mutually agree as follows;

1. Definition and Explanation of Terms.

- (a) "AC Intertie" means Bonneville's rights in the alternating current ("AC") transmission facilities for transferring power and energy between Oregon and California as follows: two 500 kV lines extending from John Day Substation to Malin Substation and to the California-Oregon Border; portions of John Day, Grizzly, and Malin Substations and the Sand Springs, Fort Rock, and Sycan Compensation Stations; a portion of the Buckley-Summer Lake 500 kV transmission line and associated substations; portions of the Buckley-Marion and Marion-Alvey 500 kV transmission lines and associated facilities; Bonneville's capacity rights in the Summer Lake-Malin 500 kV transmission



line; Bonneville's share of ownership of the Alvey-Dixonville and Dixonville-Meridian 500 kV transmission lines; portions of the Alvey, Dixonville, Meridian and Captain Jack Substations; the 500 kV transmission line extending from Captain Jack Substation to the California-Oregon Border; and any modifications, improvements, or additions to such facilities.

(b) "Federal Transmission System" means transmission facilities owned by Bonneville.

~~(e) "Workday" for the purpose of scheduling means a day which the Parties observe as a regular workday.~~

2. Term of Agreement~~3~~. This Agreement shall be effective and shall supersede the ~~1994~~First Amended and Restated Midpoint-Meridian Agreement upon satisfaction of all of the following conditions: (a) execution by the Parties~~and; (b) approval or acceptance of this Agreement~~ for filing without change by the Federal Energy Regulatory Commission for a term coincident with the AC Intertie Agreement; (c) satisfaction of all conditions precedent in the Joint Purchase and Sale Agreement ("JPSA") between PacifiCorp and Idaho Power Company to transfer certain transmission facilities related to the Boardman to Hemingway Transmission Project ("B2H Project") in accordance with the terms of the JPSA, including the development, construction and energization of the B2H Project; and (d) satisfaction of all conditions precedent in Point-to-Point Contract No. 04TX-11722, Tables 250, 251, 252, 253, 254, and 255 in accordance with the terms thereof. Upon termination of this Agreement, all liabilities accrued hereunder shall be and are hereby preserved until satisfied.

3. ~~Exhibits. Exhibit A is incorporated herein as part of this Agreement. PacifiCorp shall be the "Transferee" mentioned in Exhibit A and Bonneville shall be the "Transferor" therein mentioned.~~[Intentionally Omitted.]

4. Right to Use Transmission Capacity.

(a) ~~Buckley-Summer Lake/Summer Lake-Malin Exchange~~. During the term hereof, ~~the Parties hereby exchange the right to use the capacity in the Buckley-Summer Lake Line and the Summer Lake-Malin Line. PacifiCorp shall have the use of 340 megawatts of bi-directional scheduling capability in the Buckley-Summer Lake Line; and Bonneville shall have the use of 1000 megawatts of bi-directional scheduling capability above PacifiCorp's 1000 megawatts of capability in the Summer Lake-Malin Line. Such rights of use shall include Bonneville's initial terminal facilities in the Buckley and Summer Lake Substations and PacifiCorp's terminal facilities in the Summer Lake and Malin Substations. Such right of use is based on the ratio of each Party's estimated investment in, and the transfer capability of, its respective lines and related facilities.~~ PacifiCorp shall be responsible for the capital and annual costs of two 500 kV line terminal positions at Summer Lake Substation, including two power circuit breakers, and the additions required at Malin Substation in accordance with the Operation and Maintenance Agreement; provided, however, that Bonneville will operate all such equipment at PacifiCorp's expense. Bonneville

shall be responsible for all other facilities at Summer Lake and, with other owners of the AC Intertie, for the facilities to connect Buckley to the AC Intertie. ~~For amounts PacifiCorp schedules in or out of Buckley within its 340 megawatt capacity ("Buckley Schedule") PacifiCorp shall reimburse Bonneville for incidental transmission and the associated losses pursuant to the general transmission agreement (Contract No. EW 78 Y83 0035), or for firm transmission and associated losses under an~~

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~~Amended and Restated Midpoint Meridian Transmission Agreement~~

~~appropriate firm wheeling agreement. Use of one Party's~~ the capacity in ~~either of the Buckley-Summer Lake Line or the Summer Lake-Malin Line by the other~~ Bonneville shall be subject to availability, as determined by ~~the other Party~~ PacifiCorp, and shall be subject to payment and loss provisions agreed upon by the Parties. The Parties shall be compensated for ~~control~~ balancing authority area electric power losses pursuant to Section 8 of the AC Intertie Agreement.

~~(b) Bonneville's Right to Use PacifiCorp's Summer Lake-Midpoint Transmission Capacity. Commencing on the effective date of this Agreement and continuing until the earlier of (1) the date of commercial operation of an additional high voltage transmission line between the Federal Transmission System and the Idaho Power Company system or (2) the later of (a) January 1, 1997, or (b) the date that PacifiCorp's net firm load obligations in southern Oregon and northern California exceed 1150 megawatts; if Bonneville requires additional capacity to the east in excess of the 350 megawatts capacity of its present interconnections with Idaho Power Company at LaGrande Substation and Hines Substation to serve Bonneville's own loads. Bonneville shall have the use of 200 megawatts of eastbound scheduling capability in the Midpoint-Summer Lake Line to the point where PacifiCorp's facilities interconnect with facilities of Idaho Power Company at Midpoint Substation. Losses associated with amounts of power transmitted over the Midpoint-Summer Lake Line shall be assessed in a manner agreed upon by the parties. There shall be no transmission charges for such transmission service.~~

~~(b) [Intentionally Omitted]~~

(c) Bonneville's Right to Obtain Additional Summer Lake-Midpoint Capacity. During the term of this Agreement, Bonneville shall have the option to acquire up to 400 megawatts of eastbound firm scheduling rights over the Midpoint-Summer Lake Line and an option to tap such line to serve loads and for interregional transfers. If Bonneville exercises its option to acquire up to 400 megawatts of eastbound firm scheduling rights over the Midpoint-Summer Lake Line, Bonneville shall pay PacifiCorp based upon PacifiCorp's then-effective applicable FERC filed tariff for firm transmission services. If Bonneville exercises this option, during periods when the eastbound capability of the Midpoint-Summer Lake Line is reduced, Bonneville's eastbound scheduling rights shall be reduced pro-rata with such reduction. However, during periods when transfer capability is reduced, PacifiCorp shall provide Bonneville the right to use PacifiCorp's capability not required for PacifiCorp's firm need, as determined by PacifiCorp, at no additional cost. In the event Bonneville wishes to tap the Midpoint-Summer Lake Line, Bonneville and PacifiCorp shall mutually develop the plan of service for such tap. Such tap shall not degrade or reduce PacifiCorp's East to West transfer capability on the Midpoint-Malin Line or reduce PacifiCorp's Load Carrying Capability as defined in the AC Intertie Agreement. Unless otherwise mutually agreed, Bonneville shall be responsible for all costs associated with any such tap. Unless otherwise mutually agreed, such tap

shall not increase Bonneville's eastbound transfer rights on the Midpoint-Summer Lake Line.

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~~Amended and Restated Midpoint Meridian Transmission Agreement~~

5. Transmission of Electric Power and Energy.

- (a) [Intentionally Omitted]
- (b) [Intentionally Omitted]
- (c) [Intentionally Omitted]
- (d) ~~If either Party schedules electric energy in any hour on its share of capacity provided under section 4 herein, it shall schedule losses to the other Party in the manner and amounts agreed upon by the Parties at the applicable points of delivery or points of interconnection.~~ [Intentionally Omitted]
- (e) [Intentionally Omitted]
- (f) PacifiCorp shall not transmit electric power and energy west to east over the Midpoint-Meridian Line, or any segment thereof, in a manner which will adversely impact the operation of the Federal Transmission System or the AC Intertie. The determination of an adverse impact shall be made by Bonneville.

6. Scheduling. ~~Unless otherwise agreed by the Parties, (a) PacifiCorp shall submit to Bonneville each Workday pursuant to the~~

~~scheduling provisions of the Exchange Agreement preschedules of each of the following amounts to be made available to Bonneville for each hour of the following day or days:~~

- ~~(1) the Buckley Schedule under section 4 herein.~~
- (b) ~~PacifiCorp shall submit to Bonneville each Workday retroactive reports of PacifiCorp's use of its capacity in the Buckley Summer Lake Line under subsection 4(a) herein for service to its Bend area loads.~~
- (c) ~~Bonneville shall submit to PacifiCorp each Workday (1) a retroactive report of the hourly amounts of electric energy made available to PacifiCorp for transmittal over the Midpoint Summer Lake Line pursuant to subsections 4(b) and 4(c) herein and the Summer Lake Malin Line pursuant to subsection 4(a) herein for the previous day or days and (2) a preschedule of the losses associated with the transmission services provided under (1) for the following day or days. In addition, at PacifiCorp's request, Bonneville shall (1) at the end of each hour notify PacifiCorp of the amounts of electric energy scheduled under this subsection 6(c) during such hour, and (2) by 1200 hours on each workday submit an estimate of the amounts of electric energy to be scheduled under this subsection 6(c) for the following day or days.~~

~~(d) Scheduling provisions of the Exchange Agreement shall apply to scheduling hereunder. PacifiCorp shall schedule all transactions with California utilities and governmental agencies in California through the Joint Intertie Scheduling~~

7. . Unless otherwise agreed by the Parties, schedules for electric energy and losses under Section 4(a) shall be in accordance with AC Intertie scheduling practices. Schedules for electric energy and losses under Section 4(c) shall be in accordance with PacifiCorp's scheduling practices and Open Access Transmission Tariff.

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~~office, as defined in the AC Intertie Agreement, and shall keep the appropriate scheduling personnel advised of all transactions over the Midpoint-Meridian Line and the Buckley-Summer Lake Line.~~

7. ~~[Intentionally Omitted]~~ Notices. Any notice or other communication related to this Agreement shall be delivered in person, or with proof of receipt by email, facsimile, First Class mail or overnight delivery service. Notices are effective on the date received. Either Party may change the contact information by providing notice to the other Party as provided below:

**To PacifiCorp:**

825 NE Multnomah Street, Suite 1600  
Portland, OR 97232  
Transmission Services  
Attention: Rick Vail  
Title: Vice President  
Phone: (503) 813-6938

Email:Richard.Vail@pacificorp.com

**To Bonneville Power Administration:**

Attention: Transmission Account  
Executive for PacifiCorp —  
TSE/TPP-2  
Phone: (360) 619-6016  
Fax: (360) 619-6940  
Email: txsalescontracts@bpa.gov

**By First Class Mail:**

Bonneville Power Administration  
P.O. Box 61409  
Vancouver, WA 98666

8. ~~[Intentionally Omitted]~~ Assignment. This Agreement is binding on any successors and permitted assigns of the Parties. Neither Party may transfer or assign this Agreement, in whole or in part, without the other Party's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed), except that, after thirty (30) days written notice to the other Party, either Party may assign this Agreement to any: (i) affiliate, (ii) successor in interest, or (iii) corporation or any other business entity acquiring all or substantially all of the assets of the assigning Party.
9. ~~Revision of Exhibits. Exhibit A shall be subject to revision by the Parties upon mutual agreement.~~ Choice of Law and Forum<sup>10</sup>. This Agreement shall be interpreted, construed, enforced and implemented pursuant to Federal law. The forum for litigation arising from this contract shall exclusively be a Federal court of the United States, unless the Parties agree to pursue alternative dispute resolution.
10. Reactive Power. The Parties shall jointly plan and operate their systems so that the flow of reactive power accompanying or resulting from deliveries of electric power and energy hereunder will not adversely affect the system of either Party.
11. Termination of Agreement<sup>11</sup>. ~~Termination of Agreement~~. The Parties agree that the 1994 Midpoint-Meridian Transmission Agreement superseded and terminated in its entirety the Midpoint-Medford Agreement, Contract No. DE-MS79-79BP90091, that the First Amended and Restated Midpoint-Meridian Agreement superseded and terminated in its entirety the 1994 Midpoint-Meridian Transmission Agreement, and that this Agreement is superseding and terminating in its entirety the First Amended and Restated Midpoint-Meridian Agreement; provided, however, that any liabilities incurred ~~there~~ under the Midpoint-Medford Agreement, the 1994 Midpoint-Meridian Transmission Agreement, or the First Amended and Restated Midpoint-Meridian Agreement are hereby preserved until satisfied.
12. Rules of Interpretation. The Parties agree that each Party fully participated in the drafting of each provision of this Agreement. The rule of law interpreting ambiguities against the drafting Party shall not be applicable or utilized in resolving any dispute over the meaning or intent of this Agreement or any of its provisions.
13. Amendments ~~DE-MS79-94BP94333, PacificCorp~~  
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~~Amended and Restated Midpoint Meridian Transmission Agreement~~



- . The Parties may by mutual agreement amend this Agreement through a written instrument signed by authorized representatives of each Party. Notwithstanding the forgoing, neither Party relinquishes its rights under applicable law.
14. Relationship of the Parties. Neither Party is the agent or principal of the other, nor are they partners or joint venturers. Each Party agrees that it will not represent that, in performing its obligations hereunder, it acts in the capacity of agent or principal of the other Party, nor that it is a partner or joint venturer with the other Party with respect to the subject matter of this Agreement.
15. Section Headings. Section headings and subheadings appearing in this Agreement are inserted for convenience only and are not to be construed as interpretations of text.
16. Several Obligations. Except where specifically stated in this Agreement, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective.
17. 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.
18. Dispute Resolution. In the event that either Party has a dispute that arises out of this Agreement, such Party shall provide the other Party with written notice of the dispute, which will be referred to a designated senior representative for each Party for resolution on an informal basis as promptly as practicable after receipt of the notice of dispute by the other Party. In the even the designated representatives are unable to resolve the dispute within thirty (30) calendar days of the other Party's receipt of the notice of dispute, such dispute may, upon mutual agreement of the Parties, be submitted to arbitration. In the event the Parties do not agree to submit such dispute to arbitration, each Party may exercise whatever rights and remedies it may have at law. Each Party shall be responsible for its own costs incurred.
- ~~12~~19. Signatures. This Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement, and may be executed by electronic signature and delivered electronically. The Parties have executed this Agreement as of the last date indicated below.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

PACIFICORP

UNITED STATES OF AMERICA  
Department of Energy  
Bonneville Power Administration

By: \_\_\_\_\_

By: \_\_\_\_\_

~~Department of Energy~~  
~~Bonneville Power Administration~~

**By:** */s/ Rick Link*

**By:** */s/ Eric Carter*

Title: ~~Senior~~ Vice President \_\_\_\_\_

Title: Senior Transmission Account Executive \_\_\_\_\_

If opting out of the electronic signature:

~~By:~~ \_\_\_\_\_

By:

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

~~Date:~~ \_\_\_\_\_

**Exhibit A**  
**(GENERAL WHEELING PROVISIONS [GWP Form 4R] (04-15-83))**

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GENERAL APPLICATION

1. Interpretation:

(a) ~~The provisions in this exhibit shall be deemed to be a part of the contract body to which they are an exhibit. If a provision in such contract body is in conflict with a provision contained herein, the former shall prevail.~~

(b) ~~If a provision in the General Transmission Rate Schedule Provisions is in conflict with a provision in this exhibit or the contract body, this exhibit or the contract body shall prevail.~~

(c) ~~Nothing contained in this contract shall, in any manner, be construed to abridge, limit, or deprive any party thereto of any means of enforcing any remedy, either at law or in equity, for the breach of any of the provisions thereof which it would otherwise have.~~

2. Definitions. ~~As used in this contract:~~

(a) ~~"Contractor," "Utility" or "Borrower" means the party to this contract other than Bonneville.~~

(b) ~~"Federal System" or "Federal System Facilities" means the facilities of the Federal Columbia River Power System, which for the purposes of this contract shall be deemed to include the generating facilities of the Government in the Pacific Northwest for which Bonneville is designated as marketing agent; the facilities of the Government under the Jurisdiction of Bonneville; and any other facilities:~~

(1) ~~from which Bonneville receives all or a portion of the generating capability (other than station service) for use in meeting Bonneville's loads, such facilities being included only to the extent Bonneville has the right to receive such capability; provided, however, that "Bonneville's loads" shall not include that portion of the loads of any Bonneville customer which are served by a nonfederal generating resource purchased or owned directly by such customer which may be scheduled by Bonneville;~~

(2) ~~which Bonneville may use under contract, or license; or~~

(3) ~~to the extent of the rights acquired by Bonneville pursuant to the Treaty, between the Government and Canada, relating to the cooperative development of water resources of the Columbia River Basin, signed in Washington, D.C., on January 17, 1961.~~

(c) ~~"Integrated Demand" means the number of kilowatts which is equal to the number of kilowatt hours delivered at any point during a clock hour.~~

(d) ~~"Measured Demand" means the maximum Integrated Demand for a billing month determined from measurements made as specified in the contract or as determined in section 4 hereof when metering or other data are not available for such purpose. Bonneville, in determining the Measured Demand, will exclude any abnormal Integrated Demands due to, or resulting from emergencies or breakdowns on, or maintenance of, either parties' facilities, and (b) emergencies on facilities of the Transferee, provided that such facilities have been adequately maintained and prudently operated as determined by Bonneville.~~

If the contract provides for delivery of more than one class of power to a Transferee at any Point of Delivery, the portion of each Integrated Demand assigned to any class of power shall be determined as specified in the contract. The portion of the Integrated Demand so assigned shall constitute the Measured Demand for such class of power.

(e) "Month" means the period commencing at the time when the meters mentioned in this contract are read by Bonneville and ending approximately 30 days thereafter when a subsequent reading of such meters is made by Bonneville.

(f) "Point(s) of Delivery" means the point(s) of delivery listed either in the Points of Delivery Exhibit to this contract or in the body of this contract.

(g) "System" or "Facilities" means the transmission facilities: (1) which are owned or controlled by either party, or (2) which either party may use under lease, easement, or license.

(h) "Transferee" means an entity which receives power or energy from the system of the Transferor.

(i) "Transferor" means an entity which receives at one point on its system a supplying entity's power or energy and makes such power or energy available at another point on its system for the account of the delivering entity or a third party.

(j) "Uncontrollable Forces" means:

(1) strikes or work stoppage affecting the operation of the Contractor's works, system, or other physical facilities or of the Federal System Facilities or the physical facilities of any Transferee upon which such operation is completely dependent; the term 'strikes or work stoppage' shall be deemed to include threats of imminent strikes or work stoppage which reasonably require a party or Transferee to restrict or terminate its operations to prevent substantial loss or damage to its works, system, or other physical facilities; or

(2) such of the following events as the Contractor or Bonneville or any Transferee by exercise of reasonable diligence and foresight, could not reasonably have been expected to avoid:

(A) events, reasonably beyond the control of either party or any Transferee, causing failure, damage, or destruction of any works, system or facilities of such party or Transferee; the word "failure" shall be deemed to include interruption of, or interference with, the actual operation of such works, system, or facilities;

(B) floods or other conditions caused by nature which limit or prevent the operation of, or which constitute an imminent threat of damage to, any such works, system, or facilities; and

(C) orders and temporary or permanent injunctions which prevent operation, in whole or in part, of the works, system, or facilities of either party or any Transferee, and which are issued in any bona fide proceeding by:

i. any duly constituted court of general jurisdiction; or

ii. any administrative agency or officer, other than Bonneville or its officers, provided by law (a) if said party or Transferee has no right to a review of the validity of such order by a court of competent jurisdiction; or (b) if such

~~order is operative and effective unless suspended, set aside, or annulled by a court of competent jurisdiction and such order is not suspended, set aside, or annulled in a judicial proceeding prosecuted by said party or Transferee in good faith; provided, however, that if such order is suspended, set aside, or annulled in such a judicial proceeding, it shall be deemed to be an "uncontrollable force" for the period during which it is in effect; provided, further, that said party or Transferee, shall not be required to prosecute such a proceeding, in order to have the benefits of this section, if the parties agree that there is no valid basis for contesting the order.~~

~~The term "operation" as used in this subsection shall be deemed to include construction, if construction is required to implement the contract and is specified therein.~~

~~3. Prior Demands.~~

~~(a) In determining any credit demand mentioned in, or money compensation to be paid under this contract for any month, Integrated Demands at which electric energy was delivered by the Transferor at Points of Delivery mentioned herein for the account of the other party to this contract prior to the date upon which the contract takes effect shall be considered in the same manner as if this contract had been in effect.~~

~~(b) If either party has delivered electric power and energy to the other party at any Point of Delivery specified in this contract or in any previous contract, and such Point of Delivery is superseded by another Point of Delivery specified in this contract, the Measured Demands, if any, at the superseded Point of Delivery shall be considered for the purpose of determining the charges paid to the Transferor for the electric power and energy delivered under this contract at such superseded point.~~

~~4. Measurements. Except as it is otherwise provided in section 7, each measurement of each meter mentioned in this contract shall be the measurement automatically recorded by such meter or, at the request of either party, the measurement as mutually determined by the best available information.~~

~~If it is provided in this contract that measurements made by any of the meters specified therein are to be adjusted for losses, such adjustments shall be made by using factors, or by compensating the meters, as agreed upon by the parties hereto. If changes in conditions occur which substantially affect any such loss factor or compensation, it will be changed in a manner which will conform to such change in conditions.~~

~~5. Measurements and Installation of Meters. Bonneville may at any time install a meter or metering equipment to make the measurements for any Point of Delivery required for any computation or determination mentioned in this contract, and if so installed, such measurements shall be used thereafter in such computation or determination.~~

~~6. Tests of Metering Installations. Each party to this contract shall, at its expense, test its metering installations associated with this contract at least once every two years, and, if requested to do so by the other party, shall make additional tests or inspections of such installations, the expense of which shall be paid by such other party unless such additional tests or inspections show the measurements of such installations to be inaccurate as specified in section 7. Each party shall give reasonable notice of the time when any such test or inspection is to be made to the other party who may have representatives present at such test or inspection. Any component of~~



~~such installations found to be defective or inaccurate shall be adjusted, repaired or replaced to provide accurate metering.~~

~~7. Adjustment for Inaccurate Metering.~~

~~(a) If any meter mentioned in this contract fails to register, or if the measurement made by such meter during a test made as provided in section 6 varies by more than one percent from the measurement made by the standard meter used in such test, or if an error in meter reading occurs, adjustment shall be made correcting all measurements for the actual period during which such inaccurate measurements were made, if such period can be determined. If such period cannot be determined, the adjustment shall be made for the period immediately preceding the test of such meter which is equal to the lesser of (a) one half the time from the date of the last preceding test of such meter, or (b) six months. Such corrected measurements shall be used to recompute the amounts of any electric power and energy to be made available, or any credits to be made in any exchange energy account, and of any money compensation to be paid to the Transferor as provided in this contract.~~

~~(b) If the credit theretofore made to the Transferor in the exchange energy account varies from the credit to be made as recomputed, the amount of the variance will be credited in such exchange energy account to the party entitled thereto.~~

~~(c) If the money compensation theretofore paid to the Transferor varies from the money compensation to be paid as recomputed, the amount of the variance will be paid to the party entitled thereto after both parties have agreed to such recomputation and within 30 days after receipt of invoice by the designated payment office of the payer; provided, however, that the other party may deduct such amount due it from any money compensation which thereafter becomes due the Transferor under this contract.~~

~~8. Character of Service.— Unless otherwise specifically provided for in the contract, electric power and energy made available pursuant to this contract shall be in the form of three-phase current, alternating at a nominal frequency of 60 hertz.~~

~~9. Point(s) of Delivery and Delivery Voltage.— Electric power and energy shall be delivered to each Transferee at such point or points and at such voltage or voltages as are agreed upon by the parties hereto.~~

~~10. Combining Deliveries Coincidentally.— If it is provided in this contract that charges for electric power and energy made available at two or more Points of Delivery will be made by combining deliveries at such points coincidentally:~~

~~(a) the total Measured Demand to be considered in determining the billing demand for each billing month shall be the largest sum obtained by adding for each demand interval of such month the corresponding Integrated Demands of the Transferee at all such points after adjusting said Integrated Demands as appropriate to such points;~~

~~(b) the number of kilowathours to be used in determining the energy charge, if any, and the average power factor at which electric energy is delivered at such points under this contract, during such month, shall be the sum of the amounts of electric energy delivered at such points under this contract during such month; and~~

~~(e) the number of reactive kilovolt-ampere hours to be used in determining such average monthly power factor shall be the sum of the reactive kilovolt-ampere hours delivered at such points under this contract such month.~~

~~11. Suspension of Deliveries. The other party to this contract may at any time notify the Transferor in writing to suspend the deliveries of electric power and energy provided for in this contract. Upon receipt of any such notice, the Transferor will forthwith discontinue, and will not resume, such deliveries until notified to do so by the other party, and upon receipt of such notice from the other party to do so, will forthwith resume such deliveries.~~

~~12. Continuity of Service. Either party may temporarily interrupt or reduce deliveries of electric power and energy if such party determines that such interruption or reduction is necessary or desirable in case of system emergencies, Uncontrollable Forces, or in order to install equipment in, make repairs to, make replacements within, make investigations and inspections of, or perform other maintenance work on its system. Except in case of emergency and in order that each party's operations will not be unreasonably interfered with, such party shall give notice to the other party of any such interruption or reduction, the reason therefor, and the probable duration thereof to the extent such party has knowledge thereof. Each party shall effect the use of temporary facilities or equipment to minimize the effect of any such interruption or outage to the extent reasonable or appropriate.~~

~~13. Uncontrollable Forces. Each party shall notify the other as soon as possible of any Uncontrollable Forces which may in any way affect the delivery of power hereunder. In the event the operations of either party are interrupted or curtailed due to such Uncontrollable Forces, such party shall exercise due diligence to reinstate such operations with reasonable dispatch.~~

~~14. Reducing Charges for Interruptions. If deliveries of electric power and energy to the Transferee are suspended, interrupted, interfered with or curtailed due to Uncontrollable Forces on either the Transferee's System or Transferor's System, or if the Transferor interrupts or reduces deliveries to the Transferee for any of the reasons stated in section 12 hereof, the credit in the exchange energy account which would otherwise be made, or the money compensation which would otherwise be paid to the Transferor, shall be appropriately reduced. No interruption, or equivalent interruption, of less than 30 minutes duration will be considered for computation of such reduction in charges.~~

~~15. Net Billing. Upon mutual agreement of the parties, payment due one party may be offset against payments due the other party under all contracts between the parties hereto for the sale and exchange of electric power and energy, use of transmission facilities, operation and maintenance of electric facilities, lease of electric facilities, mutual supply of emergency and standby electric power and energy, and under such other contracts between such parties as the parties may agree, unless otherwise provided in existing contracts between the parties. Under contracts included in this procedure, all payments due one party in any month shall be offset against payments due the other~~

~~party in such month, and the resulting net balance shall be paid to the party in whose favor such balance exists unless the latter elects to have such balance carried forward to be added to the payments due it in a succeeding month.~~

16. Average Power Factor.

(a) The formula for determining average power factor is as follows:

$$\text{Average Power Factor} = \frac{\text{Kilowatthours}}{\text{Date: } \underline{\hspace{10em}} + (\text{Reactive Kilovolt-ampere-hours})^2}$$

~~The data used in the above formula shall be obtained from meters which are ratcheted to prevent reverse registration.~~

~~(b) When delivery of electric power and energy by the Transferor at any point is commingled with any other class or classes of power and it is impracticable to separately meter the kilowatthours and reactive kilovolt-ampere-hours for each class, the average power factor of the total delivery of such electric power and energy for the month will be used, where applicable, as the power factor for each of the separate classes.~~

~~(c) Except as it is otherwise specifically provided in this contract, no adjustment will be made for power factor at any point of delivery described in this contract while the varhours delivered at such point are not measured.~~

~~(d) The Transferor may, but shall not be obligated to, deliver electric energy hereunder at a power factor of less than 0.85 leading or lagging.~~

17. Permits.

~~(a) If any equipment or facilities associated with any Point of Delivery and belonging to a party to this contract are or are to be located on the property of the other party, a permit to install, test, maintain, inspect, replace, repair, and operate during the term of this contract and to remove such equipment and facilities at the expiration of said term, together with the right of entry to said property at all reasonable times in such term, is hereby granted by the other party.~~

~~(b) Each party shall have the right at all reasonable times to enter the property of the other party for the purpose of reading any and all meters mentioned in this contract which are installed on such property.~~

~~(c) If either party is required or permitted to install, test, maintain, inspect, replace, repair, remove, or operate equipment on the property of the other, the owner of such property shall furnish the other party with accurate drawings and wiring diagrams of associated equipment and facilities, or, if such drawings or diagrams are not available, shall furnish accurate information regarding such equipment or facilities. The owner of such property shall notify the other party of any subsequent modification which may affect the duties of the other party in regard to such equipment, and furnish the other party with accurate revised drawings, if possible.~~

18. Ownership of Facilities.

~~(a) Except as otherwise expressly provided, ownership of any and all equipment, and of all salvable facilities installed or previously installed by a party to this contract on the property of the other party shall be and remain in the installing party.~~

~~(b) Each party shall identify all movable equipment and all other salvable facilities which are installed by such party on the property of the other by permanently affixing thereto suitable markers plainly stating the name of the owner of the equipment and facilities so identified. Within a reasonable time subsequent to initial installation, and subsequent to any modification of such installation, representatives of the parties shall jointly prepare an itemized list of said movable equipment and facilities.~~

~~19. Adjustment for Change of Conditions. If changes in conditions hereafter occur which substantially affect any factor required by this contract to be used in determining (a) any credit in any exchange energy account to be made, money compensation to be paid, or amount of electric power and energy or losses to be made available to one party by the other party, or (b) any maximum replacement demand, or average power factor mentioned in this contract, such factor will be changed in an equitable manner which will conform to such changes of conditions. If an increase in the capacity of the facilities being used by the Transferor in making deliveries hereunder is required at any time after execution of this contract to enable the Transferor to make the deliveries herein required together with those required for its own operations, the construction or installation of additional or other equipment or facilities for that purpose shall be deemed to be a change of conditions within the meaning of the preceding sentence.~~

~~If, pursuant to the terms of the agreement establishing such exchange energy account, another rate is substituted for the rate to be used in settling the balance in such account, the number of kilowatthours to be credited to the Transferor in such account for each month as provided in this agreement, shall be changed for each month thereafter to the amount computed by multiplying such number of kilowatthours by 2.5 mills and dividing the resulting product by the currently effective substituted rate in mills per kilowatthour.~~

~~20. Dispute Resolution and Arbitration.~~

~~(a) Pending resolution of a disputed matter the parties will continue performance of their respective obligations pursuant to this contract. If the parties cannot reach timely mutual agreement on any matter in the administration of this contract Bonneville shall, unless otherwise specifically provided for in subsection (b) below and, to the extent necessary for its continued performance, make a determination of such matter without prejudice to the rights of the other party. Such determination shall not constitute a waiver of any other remedy belonging to the Contractor.~~

~~(b) The questions of fact stated below shall be subject to arbitration. Other questions of fact under this contract may be submitted to arbitration upon written mutual agreement of the parties. The party calling for arbitration shall serve notice in writing upon the other party, setting forth in detail the question or questions to be arbitrated and the arbitrator appointed by such party. The other party shall, within 10 days after the receipt of such notice, appoint a second arbitrator, and the two so appointed shall choose and appoint a third. In case such other party fails to appoint an arbitrator within said 10 days, or in case the two so appointed fail for 10 days to agree upon and appoint a third, the party calling for the arbitration, upon 5 days' written notice delivered to the other party, shall apply to the person who at the time shall be the presiding judge of the United States Court of Appeals for the Ninth Circuit for appointment of the second and third arbitrator, as the case may be.~~

~~The determination of the question or questions submitted for arbitration shall be made by a majority of the arbitrators and shall be binding on the parties. Each party shall pay for the services and expenses of the arbitrator appointed by or for it, for its own attorney fee compensation for its witnesses or consultants. All other costs incurred in connection with the arbitration shall be shared equally by the parties thereto.~~

~~The questions of fact to be determined as provided in this section shall be limited to:~~

- ~~(1) the determination of the measurements to be made by the parties hereto pursuant to section 4;~~
- ~~(2) the correction of the measurements to be made pursuant to section 7;~~
- ~~(3) the duration of the interruption or equivalent interruption in section 14;~~
- ~~(4) whether changes in conditions mentioned in section 19 have occurred;~~
- ~~(5) whether the changes mentioned in section 30 were made "promptly";~~
- ~~(6) whether an increase or decrease in load or change in load factor mentioned in section 32 is unusual;~~
- ~~(7) (0) any issue which both parties agree is an issue of fact mentioned in sections 30, 31, and 34;~~
- ~~(8) the occurrence of an abnormal nonrecurring demand and the amount and time thereof;~~
- ~~(9) whether a party has complied with section 34(b); and~~
- ~~(10) the acceptable level of harmonics for purposes of section 35.~~

21. Contract Work flows and Safety Standards.

~~This contract, if and to the extent required by applicable law and if not otherwise exempted, is subject to the following provisions:~~

~~(a) Overtime Requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, shall require or permit any laborer or mechanic in any workweek in which such worker is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times such worker's basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, as the case may be.~~

~~(b) Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the provisions of subsection (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for such employee's unpaid wages. In addition, such contractor and subcontractor shall be liable to the Government for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of subsection (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed in such work in excess of eight hours or in excess of such employee's standard workweek of 40 hours without payment of the overtime wages required by subsection (a) above.~~

~~(c) Withholding for Unpaid Wages and Liquidated Damages. Bonneville may withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in subsection (b) above.~~

~~(d) Subcontracts. The Contractor shall insert in any subcontracts the clauses set forth in subsections (a) through (c) of this provision and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.~~

~~(e) Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.~~

~~22. Convict Labor. In connection with the performance of work under this contract, the Contractor agrees, if and to the extent required by applicable law or if not otherwise exempted, not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11756, December 29, 1973.~~

~~23. Equal Employment Opportunity. During the performance of this contract, if and to the extent required by applicable law or if not otherwise exempted, the Contractor agrees as follows:~~

~~(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Bonneville setting forth the provisions of the Equal Opportunity clause.~~

~~(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.~~

~~(c) The Contractor will send to each labor union or representative of workers with which said Contractor has a collective bargaining agreement or other contract or understanding, a notice, to be provided by Bonneville, advising the labor union or worker's representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.~~

~~(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.~~

~~(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to said Contractor's books, records, and accounts by~~

~~Bonneville and the Secretary of Labor for purposes of investigations to ascertain compliance with such rules, regulations, and orders.~~

~~(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.~~

~~(g) The Contractor will include the provisions of paragraphs (a) through (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as Bonneville may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by Bonneville, the Contractor may request the Government to enter into such litigation to protect the interests of the Government.~~

~~24. Additional Provisions. The Contractor agrees to comply with the clauses for Government contracts contained in the following statutes, Executive Orders, and regulations to the extent applicable:~~

~~(a) the Rehabilitation Act of 1972, Public Law 93-112, as amended, and 41 CFR 60-741 (affirmative action for handicapped workers);~~

~~(b) the Vietnam Era Veterans Readjustment Assistance Act of 1974, Public Law 92-540, as amended, and 41 CFR 60-250 (affirmative action for disabled veterans and veterans of the Vietnam era);~~

~~(c) Executive Order 11625 and 41 CFR 1-1.1310-2 (utilization of minority business enterprises);~~

~~(d) the Small Business Act, as amended.~~

~~25. Reports. The other party to this contract will furnish Bonneville such information as is necessary for making any computation required for the purposes of this contract, and the parties will cooperate in exchanging such additional information as may be reasonably useful for their respective operations.~~

~~26. Assignment of Contract. This contract shall inure to the benefit of, and shall be binding upon the respective successors and assigns of the parties to this contract. Such contract or any interest therein shall not be transferred or assigned by either party to any party other than the Government or an agency thereof without the written consent of the other except as specifically provided in this section. The consent of Bonneville is hereby given to any security assignment or other like financing instrument which may be required under terms of any mortgage, trust, security agreement or holder of such instrument of indebtedness made by and between the Contractor and any mortgagee, trustee, secured party, subsidiary of the Contractor or~~

~~holder of such instrument of indebtedness, as security for bonds of other indebtedness of such Contractor, present or future; such mortgagee, trustee, secured party, subsidiary, or holder may realize upon such security in foreclosure or other suitable proceedings, and succeed to all right, title, and interests of such Contractor.~~

~~27. **Waiver of Default.** Any waiver at any time by any party to this contract of its rights with respect to any default of any other party thereto, or with respect to any other matter arising in connection with such contract, shall not be considered a waiver with respect to any subsequent default or matter.~~

~~28. **Notices and Computation of Time.** Any notice required by this contract to be given to any party shall be effective when it is received by such party, and in computing any period of time from such notice, such period shall commence at 2400 hours on the date of receipt of such notice.~~

~~29. **Interest of Member of Congress.** No Member of, or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.~~

~~APPLICABLE ONLY IF TRANSFEREE IS A PARTY TO THIS CONTRACT~~

~~30. **Balancing Phase Demands.** If required by the Transferor at any time during the term of this contract, the Transferee shall promptly make such changes as are necessary on its system to balance the phase currents at any Point of Delivery so that the current of any one phase shall not exceed the current on any other phase at such point by more than 10 percent.~~

~~31. **Adjustment for Unbalanced Phase Demands.** If the Transferee fails to promptly make the changes mentioned in section 30, the Transferor may, after giving written notice one month in advance, determine that the Measured Demand of the Transferee at the Point of Delivery in question during each month thereafter, until such changes are made, is equal to the product obtained by multiplying by three the largest of the Integrated Demands on any phase adjusted as appropriate to such point during such month.~~

~~32. **Changes in Requirements or Characteristics.** The Transferee will, whenever possible, give reasonable notice to the Transferor of any unusual increase or decrease of its demands for electric power and energy on the Transferor's system, or of any unusual change in the load factor or power factor at which the Transferee will take delivery of electric power and energy under this contract.~~

~~33. **Inspection of Facilities.** Each party may for any reasonable purpose under this contract inspect the other party's electric installation at any reasonable time. Such inspection, or failure to inspect, shall not render such party, its officers, agents, or employees, liable or responsible for any injury, loss, damage, or accident resulting from defects in such electric installation, or for violation of this contract. The inspecting party shall observe written instructions and~~



~~rules posted in facilities and such other necessary instructions or standards for inspection as the parties agree to. Only those electric installations used in complying with the terms of this contract shall be subject to inspection.~~

~~34. Electric Disturbances.~~

~~(a) For the purposes of this section, an electric disturbance is any sudden, unexpected, changed, or abnormal electric condition occurring in or on an electric system which causes damage.~~

~~(b) Each party shall design, construct, operate, maintain and use its electric system in conformance with accepted utility practices:~~

~~(1) to minimize electric disturbances such as, but not limited to, the abnormal flow of power which may damage or interfere with the electric system of the other party or any electric system connected with such other party's electric system; and~~

~~(2) to minimize the effect on its electric system and on its customers of electric disturbances originating on its own or another electric system.~~

~~(c) If both parties to this contract are parties to the Western Interconnected Electric System Agreement, their relationship with respect to system damages shall be governed by that Agreement.~~

~~(d) During such time as a party to this contract is not a party to the Agreement Limiting Liability Among Western Interconnected Systems, its relations with the other party with respect to system damages shall be governed by the following sentence, notwithstanding the fact that the other party may be a party to said Agreement Limiting Liability Among Western Interconnected Systems. A party to this contract shall not be liable to the other party for damage to the other party's system or facilities caused by an electric disturbance on the first party's system, whether or not such electric disturbance is the result of negligence by the first party, if the other party has failed to fulfill its obligations under subsection (b)(2) above.~~

~~(e) If one of the parties to this contract is not a party to the Agreement Limiting Liability Among Western Interconnected Systems, each party to this contract shall hold harmless and indemnify the other party, its officers and employees, from any claims for loss, injury, or damage suffered by those to whom the first party delivers power not for resale, which loss, injury or damage is caused by an electric disturbance on the other party's system, whether or not such electric disturbance results from the negligence of such other party, if such first party has failed to fulfill its obligations under subsection (b)(2) above, and such failure contributed to the loss, injury or damage.~~

~~(f) Nothing in this section shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a party to this contract.~~

~~35. Harmonic Control. Each party shall design, construct, operate, maintain and use its electric facilities in accordance with good engineering practices to reduce to acceptable levels the harmonic currents and voltages which pass into the other party's facilities. Harmonic reductions shall be accomplished with equipment which is specifically designed and permanently operated and maintained as an integral part of the facilities of the party which owns the system on which harmonics are generated.~~

~~APPLICABLE ONLY IF TRANSFEREE IS NOT A PARTY TO THIS CONTRACT~~

~~36. Protection of the Transferor. Protection is or will be afforded to Bonneville or its Transferor under such of the following provisions and conditions as are specified in each contract executed or to be executed by Bonneville and each third party Transferee named in this contract: the power factor clause of the applicable Bonneville Wholesale Rate Schedule and the subject matter set forth in the General Contract Provisions under the following titles, namely:~~

~~Adjustment for Unbalanced Phase Demands; Uncontrollable Forces; Continuity of Service; Changes in Demands or Characteristics; Electric Disturbances; Harmonic Control; Balancing Phase Demands; Permits; Ownership of Facilities; and Inspection of Facilities.~~

~~RELATING TO RURAL ELECTRIFICATION ADMINISTRATION BORROWERS~~

~~37. Approval of Contract. If the Contractor borrows from the Rural Electrification Administration or any other entity under an indenture which requires the lender's approval of contracts, this contract and any amendment thereto shall not be binding on the parties thereto if they are not approved by the Rural Electrification Administration or such other entity. The Contractor shall notify Bonneville of any such entity. If approval is given, such contract or amendment shall be effective at the time stated therein.~~

~~APPLICABLE ONLY IF BONNEVILLE IS THE TRANSFEROR~~

~~38. Equitable Adjustment of Rates.~~

~~(a) Bonneville shall establish, periodically review and revise rates for the wheeling of electric power and/or energy pursuant to the terms of this contract. Such rates shall be established in accordance with applicable law.~~

~~(b) As used in this section, the words "Rate Adjustment Date" shall mean any date specified by Bonneville in a notice of intent to file revised rates as published in the Federal Register; provided, however, that such date shall not occur sooner than (1) nine months from the date that such notice of intent is published; or (2) twelve months from any previous Rate Adjustment Date. By giving written notice to the Contractor 45 days prior to such Rate Adjustment Date, Bonneville may delay such Rate Adjustment Date for up to 90 days if Bonneville determines either that the revenue level of the proposed rates differs by more than five percent from the revenue requirements indicated by most recent repayment studies entered in the hearings record or that external events beyond Bonneville's control will prevent Bonneville from meeting such Rate Adjustment Date. Bonneville may cancel a notice of intent to file revised rates at any time (1) by written notice to the Contractor; or (2) by publishing in the Federal Register a new notice of intent to file revised rates which specifically cancels a previous notice.~~

~~(c) The Contractor shall pay Bonneville for the service made available under this contract during the period commencing on each Rate Adjustment Date and ending at the beginning of the next Rate Adjustment Date at the rate specified in any rate schedule available at the beginning of such period for service of the class, quality, and type provided for in this contract, and in accordance with the terms thereof, and of the General Transmission Rate Schedule Provisions, if any, as changed with, incorporated in or referred to in such rate schedule. New rates shall not be effective on any Rate Adjustment Date unless they have been approved on a final or interim basis by a governmental agency designated by law to approve Bonneville's rates. Rates shall be applied in accordance with the terms thereof, the General~~

~~Transmission Rate Schedule Provisions as changed with, incorporated in or referred to in such rate schedule and the terms of this contract.~~

~~(WP-PKJ-0222f)~~