Contract No. «Contract Number»

DYNAMIC TRANSFER AGREEMENT

executed by the

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

acting by and through the

BONNEVILLE POWER ADMINISTRATION

and

**«CUSTOMER LONG NAME»**

This Dynamic Transfer Agreement (Agreement) is entered into by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA), and «CUSTOMER LONG NAME» (Customer). BPA and the Customer are sometimes referred to individually as “Party” and collectively as “Parties.”

**RECITALS**

BPA acting by and through its Transmission Services, is a Balancing Authority Area (BAA) operator that provides transmission service over the Federal Columbia River Transmission System (FCRTS).

The Customer desires to use the FCRTS for Dynamic Transfer.

BPA has awarded Dynamic Transfer Capability (DTC) to the Customer for a limited term and may make additional awards in the future. *[delete if not applicable]*

This Agreement sets forth the terms and conditions for BPA to provide Dynamic Transfer across the FCRTS.

BPA provides for Dynamic Transfers pursuant to its Dynamic Transfer Business Practices, or their successors (collectively referred to as BPA’s Dynamic Transfer Business Practices).

This Agreement includes operational terms and provisions in addition to the specifications set forth in BPA’s Dynamic Transfer Business Practices.

The Customer and BPA agree to the following terms and conditions:

**1. Term of Agreement**

This Agreement shall be effective on the date of execution by the Party last signing this Agreement (Effective Date) and shall continue in effect until the date the Agreement is terminated in writing by either Party with not less than 60 days prior written notice.

**2. DEFINITIONS**

Unless otherwise defined herein, capitalized terms are defined by BPA in its Open Access Transmission Tariff and Transmission & Ancillary Service Rate Schedules (Rate Schedules), by the Federal Energy Regulatory Commission in its Standards and Communication Protocols for Open Access Same-Time Information System, by the North American Electric Reliability Corporation, or by the Western Electricity Coordinating Council, or their successors.

1. **Committed Use**

Dynamic Transfer Capability, exclusive of Historic Use, that has been committed by contract to a new use or reserved by BPA for its own use.

1. **Dynamic Schedule**

A telemetered reading or value that is updated in real time and used as a schedule in the Automatic Generation Control (AGC) and the Area Control Error (ACE) equation and the integrated value of which is treated as a schedule for interchange accounting.

A DTC award that involves a Dynamic Schedule is scheduled using a Type-Dynamic e-Tag.

1. **Dynamic Transfer**

The provision of the real-time monitoring, telemetering, computer software, hardware, communications, engineering, energy accounting (including inadvertent interchange), and administration required to electronically move all or a portion of the real energy services associated with a generator or load out of one BAA into another.

This term also refers to methods by which the control response to loads or generation is assigned, on a real time basis, from the BAA to which such load or generation is electrically interconnected (native BAA) to another BAA (attaining BAA) or other controlling entity on a real time basis. This includes Pseudo-Ties, Dynamic Schedules, and dynamic arrangements within the BPA BAA.

1. **Dynamic Transfer Capability or DTC**

The capability of the transmission system to accommodate continuous ramping of a resource(s) over a pre-determined range, such that the control of the electrical output of such resource(s) can be varied from moment to moment by an entity other than the host utility/host BAA operator.

(e) **Historic Use**

Reserved MW value for BPA’s customers, for use of remote resources and loads, and Dynamic Transfer scheduling prior to January 1, 2010.

1. **Pseudo-Tie Transaction**

A telemetered reading, or value that is updated in real time, that represents generation or load assigned dynamically between BAAs and used as a tie line flow in the affected BAAs’ AGC/ACE equation, but for which no physical control area tie actually exists. To the extent that no associated energy metering equipment exists, the integration of the telemetered real time signal is used as a metered MWh value for interchange accounting purposes.

A DTC award that involves a Pseudo-Tie, is scheduled using a Type-Pseudo-Tie e-Tag.

(g) **Ramp Rate Limit Signal**

The real-time telemetry signal sent by BPA to the Customer or other applicable entity to communicate the current maximum MW/minute ramp rate limit.

**3. EXHIBITS**

The following exhibitsare incorporated herein and made a part hereof:

(a) Exhibit A (Specifications for Access to Dynamic Transfer)

(b) Exhibit B (Notices)

(c) Exhibit C (Historic Use)

**4. ACCOMMODATING DYNAMIC TRANSFERS**

1. **Dynamic Transfer Business Practice**

Dynamic Transfer shall be provided by BPA consistent with this Agreement and BPA’s Dynamic Transfer Business Practices, or their successors.

1. The Customer shall comply with the requirements in BPA’s Dynamic Transfer Business Practices or their successors.
2. BPA may determine the need for additional technical requirements related to operations or equipment limitations or to facilitate scheduling. The Customer shall comply with such additional technical requirements consistent with the provisions of this section 4.
3. **Related Agreements**

BPA may determine the need for additional agreements to implement Dynamic Transfer under this Agreement. Dynamic Transfer service under this Agreement is contingent on execution of such additional agreements, which may include, but are not limited, to the following:

1. Agreement(s) governing any necessary communications and signaling equipment requirements.
2. Agreement(s) between BPA and another BAA to govern operational matters and to ensure Dynamic Transfer is consistent with the requirements of BPA’s Dynamic Transfer Operating and Scheduling Business Practice.
3. **Dynamic Use**

If a new use of Dynamic Transfer conflicts with a Historic Use or Committed Use, the Historic Use or Committed Use will prevail.

(d) **Limiting or Curtailing Dynamic Transfer**

Based on available Dynamic Transfer Capability, BPA reserves the right to curtail or limit without liability Dynamically-Transferred megawatt amounts in order to manage and maintain reliable operation of the FCRTS and BPA’s BAA and systems directly or indirectly interconnected with the FCRTS and BPA’s BAA; and comply with other legal obligations and Committed Uses and Historic Uses.

1. **Technical Requirements**

Customer will install all communications and signaling requirements that BPA determines are necessary to facilitate Dynamic Transfer under this Agreement. BPA will notify Customer of the requirements that need to be met, which may include, but are not limited to the following:

(1) Dynamic Transfer transmission accounts.

(2) Energy Management System (EMS) (real-time signals) communication points to be exchanged via Inter-Control Center Communications Protocol (ICCP) between BPA Control Center and Customer BAA Control Center.

BPA will not enable Dynamic Transfers under this Agreement until the requirements of this section 4(e) have been satisfied.

**5. INFORMATION SHARING**

The Parties agree to share information necessary to facilitate Dynamic Transfer under this Agreement, including information that may be required by BPA’s Dynamic Transfer Operating and Scheduling Requirements Business Practice, or its successor. Customer authorizes BPA to share information needed to facilitate the provision of Dynamic Transfer pursuant to this Agreement with other BAA operators and Reliability Coordinators, or as required by statute.

**6. LIABILITY**

(a) **Uncontrollable Forces**

The Parties shall not be in breach of their respective obligations to the extent that the failure to fulfill any obligation is due to an Uncontrollable Force. “Uncontrollable Force” means an event beyond the reasonable control of, and without the fault or negligence of, the Party claiming the Uncontrollable Force, which prevents that Party from performing its contractual obligations under this Agreement and which, by exercise of that Party’s reasonable care, diligence and foresight, such party was unable to avoid. Uncontrollable Forces include, but are not limited to:

1. strikes or work stoppage;

(2) floods, earthquakes, fire, or other natural disasters, terrorist acts, epidemic, pandemics; and

(3) final orders or injunctions issued by a court or regulatory body having competent subject matter jurisdiction which the Party claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction.

Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable Force. Nothing contained in this provision shall be construed to require either Party to settle any strike or labor dispute in which it may be involved.

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

(b) **Liability between the Parties**

The Parties’ duties and standard of care with respect to each other, and the benefits and rights conferred on each other, shall be no greater than as explicitly stated herein. Neither Party, nor its directors, officers, employees or agents, shall be liable to the other Party for any loss, damage, claim, cost, charge, or expense arising from the Party’s performance or nonperformance under this Agreement, except for a Party’s gross negligence or willful misconduct and subject to applicable law.

Notwithstanding the foregoing, neither Party, nor its directors, officers, employees, or agents, shall be liable for or be entitled to recover from the other Party, whether in contract, tort, or other legal theory, any damages for business interruption or loss of actual or anticipated profits or any indirect, consequential, special, incidental, economic, contingent, exemplary, or penal damages whatsoever.

Nothing in this section shall be construed to exempt Customer from BPA’s Rate Schedules or business practices, as may be amended from time to time.

**7. NO THIRD PARTY BENEFICIARIES**

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

**8. ASSIGNMENT**

This Agreement is binding on any successors and assigns of the Parties. Neither Party may otherwise transfer or assign this Agreement, in whole or in part, without the other Party’s written consent. Such consent shall not be unreasonably withheld.

**9. ENTIRE AGREEMENT**

This Agreement, including documents expressly incorporated by reference, constitutes the entire agreement between the Parties. It supersedes all previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this Agreement.

**10. AMENDMENTS**

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

**11. 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.

**12. FREEDOM OF INFORMATION ACT (FOIA)**

BPA may release information provided by Customer to comply with FOIA or if required by any other Federal law or court order. For information that Customer designates in writing as proprietary, BPA will limit the use and dissemination of that information within BPA to employees who need the information for the purposes of this Agreement.

**13. GOVERNING LAW**

This Agreement shall be interpreted, construed, and enforced in accordance with Federal law.

**14. 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.

«CUSTOMER LONG NAME» UNITED STATES OF AMERICA

Department of Energy

Bonneville Power Administration

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| By: |  |  | By: |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Title: |  |  | Title: | AE Title |

If opting out of the electronic signature:

|  |  |
| --- | --- |
| By: |  |
|  |  |
| Name: |  |
| *(Print/Type)* |
| Title: |  |
|  |  |
| Date: |  |

**EXHIBIT A**

**Specifications for Access to Dynamic Transfer**

**TERM OF ACCESS TO DYNAMIC TRANSFER**

1. Access to Dynamic Transfer is granted to Customer pursuant to this Exhibit A and the associated Tables.

(b) Access to Dynamic Transfer cannot be reassigned or redirected without the written consent of BPA.

(c) Customer may terminate or reduce its access to Dynamic Transfer at any time by providing notice to BPA in accordance with section 1 to this Agreement and the notice provisions in Exhibit B to this Agreement.

**EXHIBIT A**

**Specifications for ACCESS TO Dynamic Transfer**

**Table «Table Number»**

**TRANSMISSION SERVICE REQUEST**

**1. TERM OF AWARD**

Start Date for Dynamic Transfer: 00:00 hours on *[insert date, ex.* October 1, 2018*]*.

Stop Date for Dynamic Transfer: 0000 hours on *[insert date, ex.* October 1, 2018*]*.

**2. DYNAMIC TRANSFER CAPABILITY AWARDED**

*[Insert MW awarded]* MW

**3**. **MAXIMUM RAMP RATE (in MWs/minute):**

**4. SOURCE INFORMATION**

(a) **Balancing Authority Area:**

(b) **Substation Name and Voltage:**

(c) **OASIS Source Description:** Contract Point of Receipt

**5. SOURCE INFORMATION**

1. **Balancing Authority Area:**
2. **Substation Name and Voltage:**
3. **OASIS Sink Description:** Contract Point of Delivery

**6. Intended Use**

*[refer to original Dynamic request]*.

**7. Dynamic TRANSFER**

Access to Dynamic Transfer cannot be reassigned or redirected without the written consent of BPA. Customer may not extend or roll over the term of its access to Dynamic Transfer listed under this Table #. Future access to Dynamic Transfer is subject to the requirements and conditions of BPA’s Dynamic Transfer Business Practices, or their successors.

Customer may terminate or reduce its access to Dynamic Transfer at any time by providing notice to BPA in accordance with the notice provision in Exhibit B to this Agreement.

**EXHIBIT B**

**NOTICES**

Any notice or other communication related to this Agreement shall be delivered in person, or 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 of such change to the following person and address:

|  |  |
| --- | --- |
| **To «Customer Long Name»**AddressCity, State ZipAttention:  Customer ContactTitle: Phone: Fax: Email: **To Customer Secondary:**Customer NameAddressCity, State ZipAttention:  Customer ContactPhone: Fax: Email:  | **To Bonneville Power Administration**Attention:  Transmission Account Executive for Customer Name – TSE/TPP-2Phone: (360) 619-6016Fax:(360) 619-6940Email: txsalescontracts@bpa.gov**First Class Mail:**Bonneville Power AdministrationP.O. Box 61409Vancouver, WA 98666-1409**Overnight Delivery Service:**Bonneville Power Administration905 NE 11th AvenuePortland, OR 97232 |

**EXHIBIT C**

**HISTORIC USE**

*[If the Customer does not have Historic Use enter, “This Exhibit C is not applicable.”]*

The Customer’s Historic Use of Dynamic Transfer Capability is subject to the terms and conditions of this Agreement and applicable BPA business practices. The Customer may continue its Historic Use associated with the following resources in the same manner and for the same purposes as it had under *[*Service Agreement/Contract No. ##TX-#####*]*; provided, however that all such Dynamic Transfers are subject to BPA’s Dynamic Transfer Business Practices.

|  |  |  |  |
| --- | --- | --- | --- |
| **Scheduling Source** | **Scheduling Sink** | **MW** | **Stop Date** |
| *[Must match exactly in NAESB Electric Industry Registry* | *[Must match exactly in NAESB Electric Industry Registry* |  | N/A |

Notwithstanding any other provision of this Agreement, if the Customer seeks to change its Historic Use of Dynamic Transfer Capability in any manner or seeks additional Dynamic Transfer Capability associated with its Historic Use, the Customer must submit a new request for Dynamic Transfer Capability consistent with BPA’s Dynamic Transfer Business Practices.