

FINAL (9/12/08) RPSA TEMPLATE

Contract No. 09PB-«#####»
DRAFT 09/12/2008

RESIDENTIAL PURCHASE AND SALE AGREEMENT

executed by the

BONNEVILLE POWER ADMINISTRATION

and

«FULL NAME OF CUSTOMER»

Table of Contents

Section	Page
1. Term	
2. Definitions	
3. Applicable PF Rate	
4. Establishment of ASC to Activate Agreement	
5. Offer By «Customer Name» and Purchase By BPA	
6. Offer By BPA and Purchase By «Customer Name»	
7. In-Lieu Transactions	
8. Invoicing, Billing, and Payment	
9. Accounting, Review, and Budgeting	
10. Pass-Through of Benefits	
11. Termination and Suspension of Agreement	
12. Balancing Account	
13. Notices And Contact Information	
14. Uncontrollable Forces	
15. Governing Law and Dispute Resolution	
16. Statutory Provisions	
17. Standard Provisions	
18. Notice Provided to Residential and Small Farm Consumers	
19. Information Exchange and Confidentiality.....	
<i>Option 1: Include for IOUs only.</i>	
20. Adjustments to Monetary Benefits	
<i>END Option 1</i>	
<i>Option 2: Include for Publics only.</i>	
20. Restriction on Right To Exchange Costs Of Resources.....	
<i>END Option 2</i>	
21. Signatures	
Exhibit A Residential Load Definition	
Exhibit B CF/CT and New Large Single Loads	
Exhibit C 2008 Average System Cost Methodology	
Exhibit D Scheduling	

This RESIDENTIAL PURCHASE AND SALE AGREEMENT (Agreement) is executed by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA), and «FULL NAME OF CUSTOMER» («Customer Name»), hereinafter individually referred to as "Party" and collectively referred to as the "Parties." «Customer Name» is a «_____» organized and authorized under the laws of the State of «_____», to purchase and distribute electric power to serve retail consumers from its distribution system within its service area.

RECITALS

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

The Parties agree:

1. TERM

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

2. DEFINITIONS

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

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

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

- 2.3 “ASC Methodology” means a methodology, as may be amended or superseded, used to determine ASC, as developed by BPA pursuant to section 5(c)(7) of the Northwest Power Act and attached to this Agreement for ease of reference purposes only as Exhibit C. This Agreement is subject to the ASC Methodology but such ASC Methodology is not incorporated as part of this Agreement.
- (Drafter’s Notes: Enter the 1981 RPSA contract number.)*
- 2.4 “Balancing Account” or “BA” means an account maintained by BPA comprised of amounts, if any, carried over from Contract No. «_____», by and between «Customer Name» and BPA[*Drafter’s Notes: For Long-Term RPSA, inset this additional language with the Bridge RPSA contract number:* and Contract No. 08PB-«#####» by and between «Customer Name» and BPA], plus any additional amounts accrued pursuant to section 12 of this Agreement.
- 2.5 “Base Period” means the calendar year of the most recent FERC Form 1 data at the commencement of the ASC review period.
- 2.6 “Base Period ASC” means the ASC determined in the Review Period using «Customer Name»’s Base Period data, all in accordance with the ASC Methodology.
- 2.7 “Business Day(s)” means every Monday through Friday except Federal holidays.
- 2.8 “Contract System Costs” means «Customer Name»’s costs for production and transmission resources, including power purchases and conservation measures, which costs are includable in and subject to the provisions of Appendix 1, all in accordance with the ASC Methodology. Under no circumstances shall Contract System Costs include costs excluded from ASC by section 5(c)(7) of the Northwest Power Act.
- 2.9 “Contract System Load” means: (1) the total Regional retail load included in the Form 1, or (2) for a consumer-owned utility (preference customer), the total Regional retail load from the most recent annual independently audited financial statement, as either may be adjusted pursuant to the ASC Methodology, all in accordance with the ASC Methodology.
- 2.10 “Due Date” shall have the meaning as described in section 8.2.
- 2.11 “Effective Date” means the effective date of this Agreement, as determined pursuant to section 1 above.
- 2.12 “Exchange Period” means the period during which «Customer Name»’s ASC is effective for the calculation of «Customer Name»’s benefits under this

Agreement. Each Exchange Period shall be the period of time concurrent with the duration of each BPA wholesale power rate period.

- 2.13 “Fiscal Year” or “FY” means the period beginning each October 1 and ending the following September 30.
- 2.14 “Form 1” means the annual filing submitted to the Federal Energy Regulatory Commission required by 18 CFR §141.1, as specified in the ASC Methodology.
- 2.15 “In-Lieu PF Power” means firm power that is sold by BPA to «Customer Name» in an in-lieu transaction at the applicable Priority Firm Power Exchange Rate, or its successor.
- 2.16 “In-Lieu Power” means firm power acquired by BPA from a source(s) other than «Customer Name» at a cost less than «Customer Name»’s ASC, as provided in section 5(c)(5) of the Northwest Power Act. The provisions for acquisition and delivery of In-Lieu Power shall be provided in a policy developed by BPA after this Agreement is executed.
- 2.17 “In-Lieu Power Policy” means a policy to be developed by BPA that will contain provisions for: (1) the acquisition and purchase of In-Lieu Power by BPA, and (2) the delivery and sale of In-Lieu PF Power to «Customer Name».
- 2.18 “Issue Date” shall have the meaning as described in section 8.2.
- 2.19 “Jurisdiction” means the service territory of «Customer Name» within which a particular Regulatory Body has authority to approve «Customer Name»’s retail rates. Jurisdictions must be within the Region.
- 2.20 “New Large Single Load” or “NLSL” has the meaning specified in section 3(13) of the Northwest Power Act and in BPA’s NLSL Policy.
- 2.21 “Northwest Power Act” means the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §839, Public Law No. 96-501, as amended.
- 2.22 “Region” means the Pacific Northwest as defined in section 3(14) of the Northwest Power Act.
- 2.23 “Regulatory Body” means a state commission or consumer-owned utility governing body, or other entity authorized to establish retail electric rates in a Jurisdiction.
- 2.24 “Residential Exchange Program” means the program implemented under this Agreement and established by section 5(c) of the Northwest Power Act.

- 2.25 “Residential Load” means the Regional residential load to which «Customer Name» sells power, as that residential load is defined in the Northwest Power Act and as further defined in Exhibit A.
- 2.26 “Residential Load Eligible for Monetary Benefits” means the monthly amounts of Residential Load determined pursuant to Exhibit A, less:
- (a) any amounts of Residential Load with respect to which BPA has issued a notice of the election, pursuant to section 7.3 below, to acquire In-Lieu Power and «Customer Name» has elected to either take physical delivery of In-Lieu PF Power or forego exchange benefits corresponding to the amount of In-Lieu Power; or
 - (b) any amounts of Residential Load with respect to which BPA has issued a notice of the election, pursuant to section 7.3 below, to acquire In-Lieu Power and «Customer Name» has elected to suspend its sale and purchase under sections 5 and 6 of this Agreement, for the duration of the time specified in the in-lieu notice.
- 2.27 “Review Period” means the period of time during which «Customer Name»’s Appendix 1 is under review by BPA. The Review Period begins on June 1 and ends on or about November 15 of the Fiscal Year prior to the Fiscal Year BPA implements a change in wholesale power rates.
- 2.28 “Third Party Transmission Provider” means a transmission provider other than BPA that delivers power to «Customer Name».
- Drafter’s Note: Include Tiered Rates Methodology definition only for public customers. For an IOU, delete this definition and re-number accordingly.*
- 2.29 “Tiered Rates Methodology” or “TRM” means the long-term methodology established by BPA in a Northwest Power Act section 7(i) hearing as the Tiered Rate Methodology to implement the Policy (as defined in the TRM) construct of tiering BPA’s Priority Firm Power rates for serving load under CHWM Contracts.
- 2.30 “Transmission Component of ASC” means the portion of «Customer Name»’s ASC attributable to transmission, as described in the In-Lieu Power Policy.
- 2.31 “Uncontrollable Force” shall have the meaning specified in section 14.

3. APPLICABLE PF EXCHANGE RATE

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

4. ESTABLISHMENT OF ASC TO ACTIVATE PARTICIPATION

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

5. OFFER BY «CUSTOMER NAME» AND PURCHASE BY BPA

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

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

6. OFFER BY BPA AND PURCHASE BY «CUSTOMER NAME»

Simultaneous with the offer by «Customer Name» and purchase by BPA pursuant to section 5 above, BPA shall offer and «Customer Name» shall purchase each month an amount of electric power equal to the Residential Load Eligible for Monetary Benefits that «Customer Name» offers and BPA purchases each month pursuant to section 5.

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

7. IN-LIEU TRANSACTIONS

7.1 BPA's Right to In-Lieu

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

If the expected cost of In-Lieu Power is less than the applicable PF Exchange Rate, then «Customer Name» may upon prior written notice suspend its sale and purchase under sections 5 and 6 of this agreement for all or a portion of

the amount of Residential Load Eligible for Monetary Benefits that BPA proposes to serve with In-Lieu PF Power, for the duration of time specified in the in-lieu notice. «Customer Name»'s election under this section shall be based on all or a percentage portion of «Customer Name»'s Residential Load Eligible for Monetary Benefits that BPA has specified in its in-lieu notice. Amounts suspended under this section 7.1 shall not be added to «Customer Name»'s balancing account under section 12.

7.2 In-Lieu Power Policy

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

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

7.3 In-Lieu Notice(s)

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

7.4 In-Lieu Transaction Implementation Mechanisms

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

8. INVOICING, BILLING, AND PAYMENT

8.1 Invoicing for Residential Load Eligible for Monetary Benefits

8.1.1 «Customer Name» shall submit to BPA each month an accounting invoice that documents: (1) the amount of Residential Load Eligible for Monetary Benefits that «Customer Name» has elected to exchange

pursuant to sections 5 and 6 above, (2) «Customer Name»'s ASC, (3) «Customer Name»'s applicable PF Exchange rate, (4) any adjustment pursuant to section 20, and (5) any adjustment pursuant to section 12. Such documentation shall include, but is not limited to, the kilowatt-hours of energy which «Customer Name» billed to the Residential Load Eligible for Monetary Benefits during the previous month. Each such invoice shall be subject to adjustment pursuant to section 9 below.

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

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

In the event monthly amounts of In-Lieu PF Power are physically delivered to «Customer Name», amounts billed under this Agreement shall be the monthly amounts specified in the in-lieu notice that are delivered by BPA to «Customer Name» pursuant to section 7 above.

8.2.1 **Billing**

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

8.2.2 **Payment**

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

If «Customer Name» has made payment on an estimated bill then:

- (1) if the amount of the final bill exceeds the amount of the estimated bill, then «Customer Name» shall pay BPA the difference between the estimated bill and final bill by the final bill's Due Date; or
- (2) if the amount of the final bill is less than the amount of the estimated bill, then BPA shall pay «Customer Name» the difference between the estimated bill and final bill by the 20th day after the final bill's Issue Date. If the 20th day is a

Saturday, Sunday, or federal holiday, then BPA shall pay the difference by the next Business Day.

8.2.3 Late Payments

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

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

shall be applied each day to any unpaid balance.

8.2.4 Disputed Bills

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

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

8.2.4.3 If the Parties agree, or if after a final determination of a dispute pursuant to section 15, «Customer Name» is entitled to a refund of any portion of the disputed amount, then BPA shall make such refund with simple interest computed from the date of receipt of the disputed payment to the date the refund is made. The daily interest rate shall equal the Prime Rate (as reported in the Wall Street Journal or successor publication in the first issue published during the month in which payment was due) divided by 365.

9. ACCOUNTING, REVIEW, AND BUDGETING

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

- (1) «Customer Name»'s ASC as determined pursuant to the ASC Methodology;

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

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

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

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

10. PASS-THROUGH OF BENEFITS

10.1 Except as otherwise provided in this Agreement, all benefit amounts received by «Customer Name» from BPA under this Agreement shall be passed through to residential and small farm customers as either: (1) a separately stated credit to applicable retail rates; (2) monetary payments; or (3) as otherwise directed by the applicable Regulatory Body(ies).

10.2 Benefits shall be passed through by «Customer Name» in a timely manner, as set forth in this section 10 *provided, that*, it is specifically acknowledged and agreed that distributions of benefits for the Residential Load may be made by «Customer Name» in advance of its receipt of any such benefits from BPA and that such benefits may be used to set off distributions to the Residential Load made by «Customer Name» before or after October 1, 2011. The amount of benefits held as described in section 10.3 below at any time shall not exceed the greater of: (1) the expected receipt of monetary payments from BPA under this Agreement over the next 180 days, and (2) monetary payments received from BPA under this Agreement over the preceding 180 days; *provided, however*, that if the amount of benefits held in the account is less than \$1,000,000, then «Customer Name» may distribute benefits on a less frequent basis, provided that distributions are made at least once each Fiscal Year; *provided, further*, that any remaining benefits held shall be distributed to Residential Load no later than 1 year following the earlier of: (a) the end of the term of this Agreement; or (b) termination or suspension of this Agreement.

10.3 Benefits shall be passed through consistent with any procedures developed by «Customer Name»'s Regulatory Body(ies) that are not otherwise inconsistent with this Agreement, the Northwest Power Act, or other applicable federal law. Until «Customer Name» has passed through such benefits pursuant to section 10.1 above, benefits received by «Customer Name» shall be identified on «Customer Name»'s books of account and shall accrue interest at the rate(s) established by «Customer Name»'s Regulatory Body(ies).

10.4 Nothing in this Agreement shall require that any In-Lieu PF Power delivered to «Customer Name» pursuant to section 7 be delivered on an unbundled basis to residential and small farm customers of «Customer Name» or that «Customer Name» provide retail wheeling for such In-Lieu PF Power.

11. TERMINATION AND SUSPENSION OF AGREEMENT

11.1 Termination of Agreement

11.1.1 «Customer Name» may terminate this Agreement by providing BPA with written notice within 30 days following the date of approval by the Federal Energy Regulatory Commission of new BPA rates (on the earlier of such approval on an interim basis, or if interim approval is not granted, on a final basis) in which the supplemental rate charge provided for in section 7(b)(3) of the Northwest Power Act is applied and causes the PF Exchange rate charged «Customer Name» to exceed «Customer Name»'s ASC. Such termination shall become effective as of the date specified in the notice.

11.1.2 Upon termination of this Agreement pursuant to section 11.1.1, «Customer Name» shall not participate in the Residential Exchange

Program established in section 5(c) of the Northwest Power Act until «Customer Name» offers to sell electric power to BPA pursuant to a new Residential Purchase and Sale Agreement (RPSA) that has been executed by the Parties. Such RPSA shall become effective no earlier than the start of the first Exchange Period following such request.

11.2 Suspension of Agreement

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

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

11.3 Remedies

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

12. BALANCING ACCOUNT

12.1 Balancing Account

Option 1: Include for a utility with a deemer carry over from the 1981 RPSA and/or the Bridge RPSA

The BA balance attributable to carry over amounts under the 1981 RPSA, and/or the Bridge RPSA, if any, shall be determined by BPA, subject to the resolution of any disputes regarding such determination; provided, however, that the effect of section 12.3 below shall not be stayed pending resolution of any such dispute.

END Option 1

Option 2: Include for a utility with no carry over from the 1981 RPSA, but with a possible carryover from the Bridge RPSA

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

END Option 2

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

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

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

Where

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

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

BA_B_m = Current month's ending BA balance

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

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

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

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

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

12.2 Additions to the Beginning Balancing Account

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

12.3 Resumption of Monetary Benefits

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

12.4 BA Balance Carry Over

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

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

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

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

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

(Drafter's Note: Check BPA address and phone number prefix to ensure it is applicable.)

If to «Customer Name»:

If to BPA:

«Utility Name»

Bonneville Power Administration

«Street Address»

«Street Address»

«P.O. Box »

«P.O. Box»

«City, State, Zip»

«City, State, Zip»

Attn: «Contact Name»

Attn: «AE Name - Routing»

«Contact Title»

«Senior »Account Executive

Phone: «###-###-####»

Phone: «###-###-####»

FAX: «###-###-####»

FAX: «###-###-####»

E-Mail: «E-mail address»

E-Mail: «E-mail address»

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

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

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

14.2 Neither the unavailability of funds or financing, nor conditions of national or local economies or markets shall be considered an Uncontrollable Force. The economic hardship of either Party shall not constitute an Uncontrollable

Force. Nothing contained in this provision shall be construed to require either Party to settle any strike or labor dispute in which it may be involved.

14.3 If an Uncontrollable Force prevents a Party from performing any of its obligations under this Agreement, such Party shall:

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

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

15. GOVERNING LAW AND DISPUTE RESOLUTION

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

15.1 Judicial Resolution

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

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

15.2 Arbitration

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

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

Nonbinding arbitration shall be used to resolve any dispute arising out of this contract that is not excluded by section 14.1 above and is not resolved via binding arbitration, unless «Customer Name» notifies BPA that it does not wish to proceed with nonbinding arbitration.

15.3 Arbitration Procedure

Any arbitration shall take place in Portland, Oregon, unless the Parties agree otherwise. The Parties agree that a fundamental purpose for arbitration is the expedient resolution of disputes; therefore, the Parties shall make best efforts to resolve an arbitrable dispute within 1 year of initiating arbitration. The rules for arbitration shall be agreed to by the Parties.

15.4 Arbitration Remedies

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

15.5 Finality

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

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

15.6 Arbitration Costs

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

16. STATUTORY PROVISIONS

16.1 Retail Rate Schedules

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

16.2 New Large Single Loads and CF/CTs

16.2.1 Determination of an NLSL

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

16.2.1.1 BPA shall determine an increase in production load to be an NLSL if any load associated with a new facility, an existing facility, or an expansion of an existing facility, which is not contracted for, or committed to (CF/CT), as determined by the Administrator, by a public body, cooperative, investor-owned utility, or federal agency customer prior to September 1, 1979, and which will result in an increase in power

requirements of such customer of 10 Average Megawatts (87,600,000 kilowatt-hours) or more in any consecutive 12-month period.

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

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

16.2.2 Determination of a Facility

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

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

16.2.3 Administrative Obligations and Rights

16.2.3.1 «Customer Name»'s CF/CT loads and NLSLs are listed in Exhibit B.

16.2.3.2 «Customer Name» shall provide reasonable notice to BPA of any expected increase in a single load that may qualify as an

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

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

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

16.2.4 Metering an NLSL

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

16.2.5 Undetermined NLSLs

If BPA concludes in its sole judgment that «Customer Name» has not fulfilled its obligations, or has not been able to obtain access or information from the end-use consumer under sections 16.2.3 and 16.2.4, BPA may determine any load subject to NLSL monitoring to be an NLSL. Such NLSL determination shall be final unless «Customer Name» proves to BPA's satisfaction that the applicable load did not exceed 10 Average Megawatts in any 12-month monitoring period.

16.3 BPA Appropriations Refinancing

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

17. STANDARD PROVISIONS

17.1 Amendments

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

17.2 Entire Agreement and Order of Precedence

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

17.3 Assignment

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

17.4 No Third-Party Beneficiaries

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

17.5 Waivers

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

17.6 BPA Policies

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

18. NOTICE PROVIDED TO RESIDENTIAL AND SMALL FARM CONSUMERS

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

19. INFORMATION EXCHANGE AND CONFIDENTIALITY

19.1 Information Exchange

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

19.2 Confidentiality

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

Drafter's Note: Include the following section 20 ONLY for IOUs

20. ADJUSTMENTS TO MONETARY BENEFITS

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

Notwithstanding anything in this Agreement to the contrary, it is hereby agreed that neither Party has waived or is waiving, either by virtue of entering into this Agreement, by making or accepting payments under this Agreement, or otherwise, any arguments or claims it has made or may make, or any rights or obligations it has or may have, regarding: (1) the above referenced payments, if any, to «Customer Name», (2) the calculation, implementation, or settlement of Residential

Exchange Program benefits for any period of time, or (3) implementation or settlement of rights under the Contract No. « _____ » (Load Reduction Agreement), as amended, and each Party hereby expressly reserves all such arguments and rights. This section 20 shall survive the termination or the expiration of this Agreement and shall survive even if any other provision of this Agreement is held to be not consistent with law, or void, or otherwise unenforceable.

End section 20 for IOUs only

Drafter's Note: Include the following section 20 ONLY for any public customer that executed a Regional Dialogue contract in 2008 that included a CHWM.

20. AGREEMENT TO LIMIT EXCHANGE TO COSTS OF EXISTING RESOURCES

«Customer Name» agrees it will not seek and shall not receive residential exchange benefits pursuant to section 5(c) of the Northwest Power Act other than pursuant to Section IV(G) of the 2008 ASC Methodology or its successor. «Customer Name» recognizes that the quantity of Residential Load Eligible for Monetary Benefits will be determined in a subsequent policy or rate determination following establishment of the Tiered Rates Methodology.

End section 20 for publics only

21. SIGNATURES

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

«FULL NAME OF UTILITY»

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By _____

By _____

Name _____
(Print / Type)

Name _____
(Print / Type)

Title _____

Title _____

Date _____

Date _____

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

Exhibit A
RESIDENTIAL LOAD DEFINITION

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

Such tariff schedules as presently effective include:

- (1) for all schedules listed below, include the amount, expressed in kilowatt-hours, of Residential Load supplied by «Customer Name» under:
- (A) «schedule»
 - (B) «schedule»
 - (C) «schedule», and
- (2) a portion of the Residential Load supplied by «Customer Name» as determined pursuant to section 2 of this exhibit.

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

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

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

where:

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

3. When more than one farm is supplied from a common pumping installation, the irrigation and pumping load of the installation shall be allocated among the farms using the installation, based on the method (e.g., water shares, acreage) that the farms use to allocate the power costs among themselves. These allocated loads shall

then be combined with any other irrigation and pumping loads attributed to the farms under section 2 of this exhibit. In no instance shall any farm's total qualifying irrigation loads for any billing month exceed 222,000 kWh.

4. A farm is defined as a parcel or parcels of land owned or leased by one or more persons (person includes partnerships, corporations, or any legal entity capable of owning farm land) that is used primarily for agriculture. Agriculture is defined to include the raising and incidental primary processing of crops, pasturage, or livestock. Incidental primary processing means those activities necessarily undertaken to prepare agricultural products for safe and efficient storage or shipment. All electrical loads ordinarily associated with agriculture as defined above shall be considered as usual farm use.

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

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

- (1) use,
 - (2) ownership,
 - (3) control,
 - (4) operating practices, and
 - (5) distance between parcels.
5. Unused irrigation allocations may not be reallocated to other farms or to another billing period.

6. The operator of a farm is required to certify to «Customer Name» all irrigation accounts, including horsepower rating for that farm, including all irrigation accounts commonly shared. The operator of a farm is required to provide «Customer Name» and BPA all documentation requested to assist in the farm determination.
7. This exhibit shall be revised to incorporate additional qualifying tariff schedules, subject to BPA's determination that the loads served under these schedules are qualified under the Northwest Power Act.

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

Exhibit B
CF/CT AND NEW LARGE SINGLE LOADS

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

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

1.1 CF/CT Loads

«Customer Name» has no loads identified that were contracted for, or committed to (CF/CT), as of September 1, 1979, as defined in section 3(13)(A) of the Northwest Power Act.

End Option 1

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

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

1.1 CF/CT Loads

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

End-use consumer's name:

Facility name:

Facility location:

Date of CF/CT determination:

Facility description:

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

End Option 2

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

1.2 Potential NLSLs

«Customer Name» has no identified potential NLSLs.

End Option 1

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

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

1.2 Potential NLSLs

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

End-use consumer name:

Facility location:

End Option 2

1.3 Existing NLSLs

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

«Customer Name» has no existing NLSLs.

End Option 1

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

1.3.1 «Name of NLSL» NLSL

«Customer Name» has an NLSL.

End-use consumer name:

Facility location:

Date load determined as an NLSL:

Approximate load:

Description of NLSL:

Manner of service:

End Option 2

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

Exhibit C
AVERAGE SYSTEM COST METHODOLOGY

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

**Exhibit D
SCHEDULING**

1. SCHEDULING FEDERAL RESOURCES

«Customer Name» is responsible for creating E-Tags for all deliveries of In-Lieu PF Power purchased under this Agreement.

2. AFTER THE FACT

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

3. REVISIONS(07/17/08 Version)

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

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

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

BNR0002

June 16, 2008

**COMMENTS OF THE PACIFIC NORTHWEST INVESTOR-OWNED UTILITIES
RESPECTING THE DRAFT TEMPLATES FOR THE BRIDGE RESIDENTIAL
PURCHASE AND SALE AGREEMENT AND THE REGIONAL DIALOGUE LONG-
TERM RESIDENTIAL PURCHASE AND SALE AGREEMENT**

Avista Corporation, Idaho Power Company, PacifiCorp, Portland General Electric Company and Puget Sound Energy, Inc. ("Pacific Northwest Investor-Owned Utilities") submit the following comments respecting the draft templates for the Bridge Residential Purchase and Sale Agreement ("Bridge RPSA") and the Regional Dialogue Long-Term Residential Purchase and Sale Agreement ("RD RPSA").

Below we highlight several substantive comments to the draft templates. We have attached a black-line of the Bridge RPSA draft template that proposes a number of language changes to the draft template, including both some of the substantive comments listed below as well as other proposed changes. Because the provisions of the Bridge RPSA and the RD RPSA are substantially the same, the comments below and in the attached black-line document apply to both draft templates unless otherwise noted.

• **Section 7 (In-Lieu Transactions)**

- The current drafts leave a number of fundamental terms related to In-Lieu transaction unresolved until an In-Lieu Power Policy is established. For example, the minimum period advance written notice, the sources of In-Lieu Power, and the expected costs of In-Lieu Power, all are either to be established by, or determined not inconsistent with, the yet to be issued In-Lieu Power Policy. Leaving such significant terms undefined will cause undue and unacceptable uncertainty regarding the parties' responsibilities and obligation if BPA attempts to engage in such transactions before adoption of an In-Lieu Power Policy. To remove this uncertainty, we propose that the RPSA templates be revised to provide that BPA will not engage in such transactions until it adopts an In-Lieu Power Policy that has been the subject of a record of decision. We propose that the minimum period for advance notice be set at 5 years in order accommodate investor-owned utilities' resource planning needs and to permit the utilities to integrate the In-Lieu Power deliveries into their resource mix.
- Section 7 (c) and (d). If the expected cost of In-Lieu Power is less than the applicable PF exchange rate and <<Customer Name>> elects to purchase such power, then <<Customer Name>> should pay the lesser of the PF Exchange Rate and the expected cost of In-Lieu Power. This change is necessary to prevent BPA from inappropriately profiting from an In-Lieu Power transaction.
- Section 7(f). The ASC in all likelihood will be based on—or will be not less than—the cost of resources to meet the hourly peak load of «Customer Name», not just the equal hourly amounts during each HLH and in equal hourly amounts

during each LLH. Accordingly, the draft language arbitrarily and capriciously fails to provide for BPA's delivery of power that is comparable to the power represented by the ASC of «Customer Name».

- **Disputed Deemer Balances**

- Section 12 of the draft RPSA templates contemplate reference to disputed "deemer" balances that allegedly arose under the residential purchase and sale agreements executed in 1981 (1981 RPSAs) and authorizes those to be offset against benefits under the draft RPSA template. These comments address the proposed treatment of disputed "deemer" balances in the new draft RPSA templates.
- Any obligations that purportedly arose under the 1981 RPSAs are properly the subject of litigation, settlement or otherwise under the terms of those historic agreements. It would be inappropriate, in violation of the Act, and arbitrary and capricious for BPA to require contracting parties to restate or confirm such disputed balances, and waive rights and defenses they may have with respect to such balances as a condition of executing a new RPSA. The restatement or confirmation of an alleged balance is not a reasonable or necessary term or condition of service under a new RPSA. Therefore, BPA should not include provisions that restate or confirm such balances.

- **Adjustment to Monetary Payments (Section 20 in Bridge RPSA and Section 21 in RD RPSA).**

- This section warrants a number of revisions to balance the legal rights of the exchanging investor-owned utilities. Good-faith differences of opinion may exist about the legal authority to assess "overpayments of benefits" under any 2000 REP Settlement Agreement, 2001 REP Settlement Agreement or Financial Settlement Agreement and offset such amounts against future REP benefits. In addition, exchanging investor-owned utilities may have other legal concerns regarding Bonneville's determination of any adjustment amounts in any rate case proceedings or other BPA forums. Exchanging investor-owned utilities should not be placed in the position of choosing between (i) pursuing their legal right to challenge such legal authority and such determinations and (ii) receipt of REP benefits to which their customers are entitled.
- Accordingly, a provision should be added stating that by signing the agreement no party waives or prejudices any arguments or claims it may have with respect to such adjustment or BPA determination of such adjustment in a wholesale power rate adjustment proceeding or other forum. We propose a non-waiver, reservation of rights clause along the following lines, which is patterned after a similar provision in the Interim Relief Agreements:

- “Notwithstanding anything in this Agreement to the contrary, it is hereby agreed that neither << Customer Name >> nor BPA has waived or is waiving, either by virtue of entering into this Agreement, by making or accepting payments under this Agreement, or otherwise, any arguments or claims it has made or may make, or any rights or obligations it has or may have, regarding (i) any 2000 REP Settlement Agreement, 2001 REP Settlement Agreement or Financial Settlement Agreement; (ii) the legal authority of BPA to assess, determine and/or implement any alleged overpayment of benefits under the Residential Exchange Program and any agreement implementing the Residential Exchange Program, and (iii) the calculation or implementation of the Residential Exchange Program benefits for any period of time, including but not limited to the determination of any adjustment amounts under this section, and each Party hereby expressly reserves all such arguments and rights. This section shall survive the termination or expiration of this Agreement and shall survive even if any other provision(s) of this Agreement is held to be not consistent with law, or void or otherwise unenforceable.”
- In addition, it should be clarified that any adjustment amount in any event shall not render the monetary payments less than zero and shall not result in additions to the balancing account described in Section 12.

- **Environmental Attributes**

- The Pacific Northwest Investor-Owned Utilities have submitted on May 9, 2008, comments respecting the disposition of environmental attributes (such as renewable energy credits) by draft **Exhibit H (04/06/08 Version)** of the **MASTER REGIONAL DIALOGUE CONTRACT TEMPLATE (04/07/08 Version)**, which comments are incorporated herein by reference. The Pacific Northwest Investor-Owned Utilities are concerned that the draft RPSA templates and the draft Master Regional Dialogue Contract Template fail to take into account the fact that costs of power resources acquired by BPA are assigned to various rates, including both the PF Preference rate and the PF Exchange rate. Therefore, Regional Dialogue contracts should not assign all Environmental Attributes associated with those power resources solely to PF Preference rate customers. Instead, PF Exchange rate customers are entitled to an equitable share of the value of the Environmental Attributes to the extent that they bear the costs of electric power resources associated with those Environmental Attributes, and Regional Dialogue contracts and the RPSA contracts should reflect this equitable share.