

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

United States Department of Energy )  
Bonneville Power Administration ) Docket No. NJ13-\_\_\_\_  
Transmission Service Terms and Conditions )

**BONNEVILLE POWER ADMINISTRATION’S PETITION FOR RECIPROCITY  
APPROVAL OF AMENDMENTS TO ATTACHMENT K TO ITS OPEN ACCESS  
TRANSMISSION TARIFF LOCAL AND REGIONAL TRANSMISSION PLANNING  
PROCESSES AND FOR EXEMPTION FROM FILING FEE**

Pursuant to 18 C.F.R. § 35.28(e) and 18 C.F.R. § 385.207, Bonneville Power Administration (“Bonneville”) hereby petitions the Federal Energy Regulatory Commission (“Commission”) for a determination that the attached amendments to Attachment K to Bonneville’s Open Access Transmission Tariff (“OATT”) substantially conform, or are superior to, the *pro forma* OATT as it has been amended by Order Nos. 1000 and 1000-A,<sup>1</sup> and for an exemption from the filing fee.

This filing includes amendments to Bonneville’s Attachment K<sup>2</sup> that are submitted in compliance with the local and regional transmission planning reforms of Order Nos. 1000 and 1000-A, and, separately from amendments addressing Order No. 1000 reforms, that reflect the change in Bonneville’s local transmission planning process from a biennial to an annual cycle.

The changes to Part IV of Bonneville’s revised Attachment K, discussed below, largely include the wording of revisions to the ColumbiaGrid Planning and Expansion Functional Agreement (“Third Restated PEFA”)<sup>3</sup> that are being filed concurrently by Avista Corporation

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<sup>1</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011) (“Order No. 1000”), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012) (“Order No. 1000-A”).

<sup>2</sup> The Commission found that Bonneville’s existing Attachment K satisfied the reciprocity standard for Order No. 890 compliance. *U.S. Dep’t of Energy – Bonneville Power Admin.*, 130 FERC ¶ 61,260 (2010).

<sup>3</sup> In early 2007, ColumbiaGrid initially filed the ColumbiaGrid Planning and Expansion Functional Agreement (“PEFA”) on behalf of Avista Corporation and Puget Sound Energy, Inc., as ColumbiaGrid Rate Schedule No. 1. The Commission first accepted the PEFA in an order issued on April 3, 2007. *ColumbiaGrid*, 119 FERC ¶ 61,007

(“Avista”) and Puget Sound Energy, Inc. (“PSE”), the public utility signatories to the Third Restated PEFA. Bonneville is attaching a copy of Avista’s filing letter for the Third Restated PEFA (Appendix B to this Petition, which will only include a clean copy of the Third Restated PEFA), which Bonneville understands is identical to PSE’s filing letter. In addition to attaching a copy of the Third Restated PEFA, Appendix B provides additional background for the Third Restated PEFA, which may assist the Commission’s review of Bonneville’s revised Attachment K.

This filing includes the following items:

1. Bonneville’s petition for Reciprocity Approval of Amendments to Attachment K to Its Open Access Transmission Tariff Local and Regional Transmission Planning Processes and for Exemption From Filing Fee.
2. Table of Revised Non-Order 1000 Attachment K Provisions (Local Planning Process) Corresponding to Principles in Order No. 890 (Appendix A).
3. Avista’s filing letter for the Third Restated PEFA, including a copy of the Third Restated PEFA (Appendix B).
4. Redlined and clean copies of revised tariff sheets showing the proposed revisions to Attachment K (contained within the eTariff filing package).

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(2007). Since that time, the PEFA has been amended twice and ColumbiaGrid has filed those amendments with FERC on behalf of Avista and PSE. Those amendments were accepted by FERC. *See* Docket Nos. ER08-457 and ER10-585.

## **I. COMMUNICATIONS**

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## **II. REQUEST FOR EXEMPTION FROM FILING FEE**

Commission regulations provide that anyone engaged in the official business of the Federal Government is exempt from the fees required by 18 CFR Part 381 and may petition for exemption in lieu of the applicable fee. 18 C.F.R. § 381.108. Bonneville is an agency within the United States Department of Energy. It is a Federal power marketing administration with its principal place of business at 905 N.E. 11th Avenue, Portland, Oregon. Bonneville requests exemption from the filing fee.

## **III. CHANGES TO LOCAL TRANSMISSION PLANNING PROCESS**

Bonneville has made three changes to its local transmission planning process: (1) changes to address the Order No. 1000 reform requiring consideration of needs driven by Public Policy Requirements in transmission providers' local planning processes; (2) changes clarifying and expanding language currently in Attachment K regarding Bonneville's review of a regional cost allocation to Bonneville; and (3) non-Order No. 1000 changes, which mainly reduce Bonneville's local transmission planning cycle from a 33-month to a 12-month cycle.

Bonneville shared drafts of these changes with stakeholders on September 18, September 25, and October 3, 2012, and invited comments. Bonneville also shared proposed changes to the ColumbiaGrid regional planning process with stakeholders in a noticed conference call on May 4 and a noticed customer forum meeting on June 20, and invited comments. Stakeholder meetings to address compliance with Order No. 1000 regional transmission planning and cost allocation reforms were held in collaboration with other members of ColumbiaGrid at the ColumbiaGrid offices on February 17, March 19, April 10, and June 12, 2012.

**A. Changes to Local Transmission Planning Process to Address Order No. 1000 Reforms**

**1. Consideration of Transmission Needs Driven by Public Policy Requirements**

In accordance with Order No. 1000,<sup>4</sup> Bonneville has added provisions to Part III of its Attachment K to identify transmission needs driven by Public Policy Requirements for which potential transmission solutions will be evaluated in Bonneville’s local transmission planning process. Bonneville understands the Commission’s requirement as, first, identification of potential transmission needs driven by Public Policy Requirements, including an opportunity for stakeholder input into such identification,<sup>5</sup> second, a process to select, from among the identified potential needs, those needs for which Bonneville will consider transmission solutions,<sup>6</sup> and third, a process to evaluate potential solutions for those selected needs.<sup>7</sup>

Rev. Att. K, Part III, section 2.1.6<sup>8</sup> allows stakeholder identification of transmission needs driven by Public Policy Requirements, and section 2.1.7 describes the transparent and non-

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<sup>4</sup> Order No. 1000 at P 207.

<sup>5</sup> *Id.* at P 203.

<sup>6</sup> *Id.* at P 209.

<sup>7</sup> *Id.* at P 205.

<sup>8</sup> Throughout this Petition, citations to Bonneville’s revised Attachment K, which is included in this filing, will be in the form of “Rev. Att. K, Part \_\_, section \_\_.”

discriminatory process Bonneville will use to select the transmission needs driven by Public Policy Requirements for which it will consider transmission solutions. In section 2.1.7, Bonneville adapts for local use the selection factors used in the ColumbiaGrid regional transmission planning process.<sup>9</sup>

Bonneville's process to plan potential solutions for the selected transmission needs driven by Public Policy Requirements includes: (1) opportunities for submission of any proposed solutions by stakeholders, between issuance of the system assessment and the public meeting to discuss draft plans of service;<sup>10</sup> (2) Transmission Provider development of conceptual solutions to selected needs driven by Public Policy Requirements, and holding a stakeholder meeting to discuss and receive comments on the conceptual solutions;<sup>11</sup> (3) application of criteria that include those listed in Rev. Att. K, Part III, section 2.5.1 to determine which conceptual solutions the Transmission Provider will choose for development of draft plans of service, followed by development of draft plans of service and holding a stakeholder meeting to discuss the draft plans of service;<sup>12</sup> (4) preparing and posting for comment the draft BPA Plan, including any preferred plans of service;<sup>13</sup> and, (5) after consideration of comments on the draft plan, updating and posting the BPA Plan.<sup>14</sup>

Because they comply with the requirements of Order No. 1000, paragraphs 203, 205, and 209, Bonneville respectfully submits that the changes to its local transmission planning process providing for consideration of transmission needs driven by Public Policy Requirements substantially conform, or are superior, to the *pro forma* tariff.

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<sup>9</sup> See Third Restated PEFA, App. A, section 2.2; Rev. Att. K, Part IV, section 3.2.

<sup>10</sup> Rev. Att. K, Part III, section 2.5.2.

<sup>11</sup> Rev. Att. K, Part III, sections 2.3.1 and 2.3.2.

<sup>12</sup> Rev. Att. K, Part III, sections 2.4.1 and 2.4.2.

<sup>13</sup> Rev. Att. K, Part III, sections 2.4.3 and 2.5.

<sup>14</sup> Rev. Att. K, Part III, section 2.5.3.

## **2. Consideration of a ColumbiaGrid Cost Allocation to Bonneville**

Bonneville has revised the cost allocation section of Attachment K with respect to its local planning process, which is Part III, section 9.1 of the existing Attachment K and Part III, section 8.1 of the revised Attachment K, and Bonneville has added language from section 2.1 of the Third Restated PEFA to Part IV, section 2 of the revised Attachment K. These revisions explain how Bonneville will address a cost allocation to Bonneville from the ColumbiaGrid regional planning process. Although Rev. Att. K, Part IV, section 2 is in the ColumbiaGrid Transmission Planning Process part of Attachment K because it is taken from the Third Restated PEFA, it provides a basis in the Third Restated PEFA for Rev. Att. K, part III, section 8.1 and will be discussed in the local planning process part of this Petition.

### **a. Relationship of the ColumbiaGrid Cost Allocation Process to Bonneville’s Statutory Authorities and Obligations**

In Order No. 1000-A, Bonneville had requested clarification that Order No. 1000 would allow Bonneville to “independently decide, using an open and transparent process consistent with its statutory authorities, whether it will receive the benefits of, and pay for, a transmission project [selected for cost allocation to Bonneville by the regional planning process].”<sup>15</sup> In submitting its request for clarification, Bonneville relied on the provisions of the Order that supported regional flexibility.<sup>16</sup> The Commission’s response included the following statement:

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<sup>15</sup> Order No. 1000-A at P 249.

<sup>16</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Request for Clarification or in the Alternative Rehearing of the Bonneville Power Administration, Docket No. RM10-23 (Aug. 22, 2011) (“Request for Clarification”), p. 15, *citing* Order No. 1000 at PP 108, 561. Those paragraphs include the following: Order No. 1000 at PP 108 (“We have indicated that we will follow a flexible approach that accommodates the needs and characteristics of particular regions”) and 561 (“We have stressed throughout this proceeding that we intend to be flexible and are open to a variety of approaches to compliance.”); *see also* Order No. 1000-A at PP 266 (“Within these parameters, public utility transmission providers, in consultation with stakeholders, have the flexibility to ensure that their respective regional transmission planning process is designed to accommodate the unique needs of that particular region.”) and 277 (“We encourage MEAG Power and other non-public utility transmission providers to raise their concerns with all participants in the development of the regional transmission planning process and cost allocation method as they are developing the compliance filings.”).

with respect to Bonneville Power's concerns regarding its perceived conflict between its statutory authorities and Order No. 1000's cost allocation requirements, we believe that any such perceived conflict is best addressed in the first instance through participation in the development of the regional transmission planning process and cost allocation method that its neighboring public utilities will rely on to comply with Order No. 1000.<sup>17</sup>

The parties to the PEFA agreed on language that addresses this response. That language, which has been submitted to the Commission by Avista and PSE as section 2.1 of the proposed Third Restated PEFA, states that:

Nothing in this Agreement nor any cost allocation under this Agreement shall obligate any Planning Party to construct, nor obligate any Planning Party to commit to construct, any transmission facilities, regardless of whether such transmission facilities are included in any Plan. Nothing in this Agreement nor any cost allocation under this Agreement will (i) determine any transmission service to be received by, or any transmission usage by, any Person, (ii) obligate any Person to purchase or pay for, or obligate any Person to commit to purchase or pay for, any transmission service or usage, (iii) obligate any Person to implement or effectuate, or commit to implement or effectuate, any cost allocation, (iv) obligate any Person to pay, or commit to pay, costs of any Project or Proposed Project in accordance with any cost allocation, or (v) entitle any Person to recover for any transmission service or usage or to recover from any Planning Party any cost of any transmission facilities, regardless of whether such transmission facilities are included in any Plan. Without limiting the generality of the foregoing, nothing in this Agreement nor any cost allocation under this Agreement will waive, or preclude any Party from exercising, such Party's rights to contest any matter referenced in this section 2.1, including any cost allocation, before the Commission.

Without limiting the generality of the foregoing, nothing in this Agreement with respect to an Order 1000 Cost Allocation shall preclude Bonneville or any other Party from carrying out any of its statutory authorities or complying with any of its statutory obligations.

Bonneville included much of the foregoing language in Rev. Att. K, Part IV, section 2.

The foregoing PEFA language establishes that the ColumbiaGrid regional transmission planning and cost allocation process creates no obligation to pay a cost allocation; nor is the agreement intended to prevent Bonneville "from carrying out any of its statutory authorities or

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<sup>17</sup> *Id.* at P 279.

complying with any of its statutory obligations.” Bonneville submits that the foregoing PEFA language effectively addresses the potential conflict between Order No. 1000 cost allocation and Bonneville’s statutory responsibilities because it allows Bonneville to participate in the regional transmission planning and cost allocation process and to carry out the decision process described in Rev. Att. K, Part III, section 8.1. The foregoing PEFA language is consistent with the Commission’s determination that Order No. 1000’s transmission planning reforms concern transmission planning, not cost recovery,<sup>18</sup> and that the Commission does not intend the reforms to interfere with existing regulatory requirements,<sup>19</sup> which, Bonneville submits, includes Bonneville’s compliance with its statutory obligations and authorities.

Bonneville respectfully submits that the language in Rev. Att. K, Part III, section 8.1 and Part IV, section 2 is needed so that public and non-public utilities in the Pacific Northwest may enroll together in a regional transmission planning and cost allocation process that implements the Order No. 1000 reforms. As discussed below, Bonneville may not delegate either its transmission investment decisions or its decisions whether to take transmission service over the facilities of others to a regional transmission planning and cost allocation process. Bonneville understands that other non-public utility signatories to the PEFA have similar requirements. As revised in the Third Restated PEFA, the ColumbiaGrid process allows for Bonneville’s participation in an Order No. 1000 compliant regional cost allocation process that will enable the Commission to meet its transmission planning and cost allocation objectives in the region.

**b. Bonneville’s Determination Regarding a ColumbiaGrid Cost Allocation**

The ColumbiaGrid Order 1000 Benefits determination and Order 1000 Cost Allocation Methodology, discussed in Appendix B to this Petition and described in the Third Restated

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<sup>18</sup> Order No. 1000 at P 563.

<sup>19</sup> See Order No. 1000-A at P 186-94.

PEFA,<sup>20</sup> are open and transparent processes that have been designed effectively to result in cost allocations that, as discussed below in part IV.D.6 of this Petition, Bonneville and other utilities may consider reasonable and consistent with sound business principles. In Rev. Att. K, Part III, section 8.1, Bonneville commits to consider “for inclusion in the BPA Plan, Projects, including cost allocations for such Projects, adopted in the ColumbiaGrid planning process.”

Under Rev. Att. K, Part III, section 8.1, Bonneville nevertheless necessarily retains the right to decide whether to accept such a cost allocation. As a Federal agency Bonneville may neither act inconsistently with applicable statutes nor delegate statutory responsibilities committed to it. The non-delegation doctrine requires Bonneville to review third party decisions that Bonneville’s statutes commit to the Administrator.<sup>21</sup>

Bonneville’s ability to terminate enrollment, as provided in Order No. 1000-A, P 622, does not address sufficiently this non-delegation requirement.<sup>22</sup> Reliance on termination would require Bonneville to review each annual ColumbiaGrid Plan update that includes a cost allocation to consider whether to remain a PEFA party. Because Bonneville’s transmission system is about 75 percent of the transmission system in the Pacific Northwest, that uncertainty would inhibit effective and non-discriminatory regional transmission planning. Thus, Rev. Att. K, Part III, section 8.1 will help achieve the Commission’s objectives by allowing Bonneville to remain a consistent and dependable participant in regional transmission planning through its participation in the ColumbiaGrid planning process.

Rev. Att. K, Part III, section 8.1 lists some of the statutory procedural requirements that Bonneville will complete in determining whether to accept a cost allocation, including

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<sup>20</sup> See Third Restated PEFA, App. A, section 10.3.

<sup>21</sup> See *U.S. Telecom Ass’n. v. F.C.C.*, 359 F.3d 554, 565 (D.C. Cir. 2004).

<sup>22</sup> See *Fund for Animals v. Kempthorne*, 538 F.3d 124, 133 (2d Cir. 2008).

compliance with the requirement to submit a budget to Congress<sup>23</sup> and compliance with the National Environmental Policy Act.<sup>24</sup> Section 8.1 also requires Bonneville to issue a proposal before determining whether to accept a cost allocation, and states that any such allocated costs that Bonneville accepts will be included in rates adopted pursuant to section 7(i) of the Northwest Power Act.<sup>25</sup>

Other statutes affect the requirement that Bonneville decide whether to accept a cost allocation determined by ColumbiaGrid. They include:

1. Transmission System Act, section 4, which grants the Administrator discretion regarding improvements to the Bonneville transmission system;<sup>26</sup> and
2. Transmission System Act, section 11(b), which authorizes the Administrator to make expenditures from the Bonneville fund for improvements to the Bonneville transmission system, subject to inclusion in and Congressional review of Bonneville’s budget.<sup>27</sup> In addition to

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<sup>23</sup> Federal Columbia River Transmission System Act (“Transmission System Act”), section 11(c), 16 U.S.C. § 838i(c), requiring Bonneville to comply with the provisions of 31 U.S.C., ch. 91.

<sup>24</sup> See 40 C.F.R. § 1506.1(a) (2011) (requiring an agency not to limit the choice of reasonable alternatives before completing the NEPA process); *Conner v. Burford*, 848 F.2d 1441, 1451 (9th Cir. 1988) (finding a violation of NEPA where an agency relinquished the “no action” alternative prior to completing the NEPA process).

<sup>25</sup> 16 U.S.C. § 839e(i) (2011).

<sup>26</sup> 16 U.S.C. § 838b (2011):

the Administrator, shall . . . construct improvements, betterments, and additions to and replacements of such [Federal transmission] system within the Pacific Northwest as he determines are appropriate and required to:

- (a) integrate and transmit the electric power from existing or additional Federal or non-Federal generating units;
- (b) provide service to the Administrator’s customers;
- (c) provide interregional transmission facilities; or
- (d) maintain the electrical stability and electrical reliability of the Federal system . . . .

<sup>27</sup> 16 U.S.C. § 838i(b) (2011):

The Administrator may make expenditures from the [Bonneville] fund, which shall have been included in his annual budget submitted to Congress, without further appropriation and without fiscal year limitation, but within such specific directives or limitations as may be included in

potentially violating the non-delegation doctrine, if Bonneville were to subject itself to mandatory acceptance of a ColumbiaGrid cost allocation before Congressional review of a submitted budget that includes such costs, Bonneville would risk violating its obligation to obtain Congressional budgetary review and frustrating Congress' ability to modify or disapprove of Bonneville accepting such costs.

Assuming for discussion purposes only that an improvement, betterment or addition to a non-Federal transmission system in the Pacific Northwest would constitute an improvement of the Federal transmission system, or would be appurtenant thereto, the Administrator is not authorized under the foregoing Transmission System Act sections to delegate such decisions to a regional transmission planning process.

Further, in Order No. 1000-A, the Commission discusses how the flow-based nature of the use of the transmission system may justify a system-wide allocation of costs of transmission service.<sup>28</sup> The Commission states that an Order No. 1000 cost allocation is “intended to ensure that all of these [flow-based] beneficiaries are allocated costs roughly commensurate with the benefits they receive in their use of the transmission grid, and . . . that such a requirement can be seen as directly affecting the rates for jurisdictional transmission service.”<sup>29</sup> The Transmission System Act, however, provides that the Administrator may purchase such “transmission over the facilities of others” as he determines “necessary or appropriate to carry out the duties imposed upon the Administrator pursuant to law . . . .”<sup>30</sup> Transmission System Act section 11(b)(5) authorizes the Administrator to determine whether to enter into contracts to acquire transmission

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appropriation acts, for any purpose necessary or appropriate to carry out the duties imposed upon the Administrator pursuant to law, including but not limited to –  
(1) construction, acquisition, and replacement of (i) the transmission system, including facilities and structures appurtenant thereto, and (ii) additions, improvements, and betterments thereto . . . .

<sup>28</sup> See Order No. 1000-A at P 559-60.

<sup>29</sup> *Id.* at P 592.

<sup>30</sup> Transmission System Act, section 11(b) and 11(b)(5), 16 U.S.C. §§ 838i(b) and 838i(b)(5) (2011).

services. Section 11(b)(5) does not authorize the Administrator to pay a transmission rate adopted to implement an Order No. 1000 cost allocation for service that, in the Administrator's judgment, amounts to something less than transmission service as intended by Congress in the Transmission System Act or that would not carry out Bonneville's legal duties.

Bonneville's statutes obligate it to operate in accordance with sound business principles and a business-oriented philosophy.<sup>31</sup> Bonneville's determination whether to accept a cost allocation from ColumbiaGrid is reviewable to determine whether it will maintain "the lowest possible rates to consumers consistent with sound business principles."<sup>32</sup> Investments in Bonneville's transmission system and obtaining transmission service on other systems are matters within Bonneville's discretion and will be subject to review by the Ninth Circuit under the sound business principles standard.<sup>33</sup> Bonneville's decision to accept or reject a ColumbiaGrid cost allocation decision is reviewable to determine whether Bonneville "relied on factors which Congress has not intended it to consider."<sup>34</sup> Thus, Bonneville must review each ColumbiaGrid cost allocation determination for consistency with Bonneville's statutory authorities.

**c. Bonneville's Role in Transmission Planning in the Pacific Northwest**

Bonneville has the largest transmission system in the Pacific Northwest and provides about 75 percent of the transmission service in the region. Congress recognized Bonneville's key role in transmission planning in the Pacific Northwest with passage of the Transmission

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<sup>31</sup> *Pac. NW Generating Coop. v. Bonneville Power Admin.*, 596 F.3d 1065, 1073 (9th Cir. 2010).

<sup>32</sup> *See id.* at 1081; *see* Transmission System Act, section 9(1), 16 U.S.C. § 838g(1) (2011).

<sup>33</sup> *See Pac. NW Generating Coop.*, 596 F.3d at 1074 (decision to sell power at a statutorily authorized rate did not insulate the decision from review under the sound business principles standard).

<sup>34</sup> *See id.* at 1082, quoting *Envtl. Def. Ctr., Inc. v EPA*, 344 F.3d 832, 858 n.36 (9th Cir. 2003).

System Act.<sup>35</sup> The Transmission System Act came about through the cooperation of the region's utilities and Bonneville in planning new generation and transmission,<sup>36</sup> and envisioned further cooperation among those parties in building out Bonneville's transmission system.<sup>37</sup> Congress understood that Bonneville would build transmission needed to integrate and transmit new generation built by the region's utilities.<sup>38</sup> Although generation is now built by generation developers in addition to utilities, Bonneville continues to build much of the transmission needed for new generation in the region.<sup>39</sup> Bonneville's enrollment<sup>40</sup> in the ColumbiaGrid transmission

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<sup>35</sup> 16 U.S.C. §§ 838 – 838k. When the Transmission System Act was passed, Bonneville had a similar share of Pacific Northwest transmission, *i.e.*, “about 80 percent of the region’s primary transmission system.” S. Rep. No. 93-1030, at 6 (1974); H.R. Rep. No. 93-1375, at 2 (1974), 1974 U.S.C.C.A.N. 5810.

<sup>36</sup> S. Rep., *supra*, at 14:

Working through the Joint Power Planning Council and the Pacific Northwest Utilities Conference Committee, the Bonneville Power Administration has cooperated with the 108 utilities in the region to coordinate the planning and construction of Federal and non-Federal facilities. This effort has resulted in the Pacific Northwest Hydro-Thermal Power Program. Phase 1 of the program, adopted in 1969 and approved by Congress, is expected to meet the power needs of the region for generation and transmission facilities through the early 1980's, and the recently proposed Phase 2 extends the program and proposes a schedule of generating projects through 1986.

<sup>37</sup> *Id.*, at 15:

The ability of BPA to construct modifications or additions to the transmission system on a timely schedule is highly important in order to assure reliability of the system and to assure that the needed transmission facilities are in place and operational at the time that the power from the new generating units comes on line.

<sup>38</sup> *See id.*, at 6 – 7:

The Hydro-Thermal Program represents an effort by the utilities of the region to plan new generating facilities on a cooperative basis. . . .

The decision of a utility or group of utilities to construct new generating facilities may be strongly influenced by the availability of transmission facilities on the Federal system to transmit the output from the source of generation to the load centers. . . .

The primary purpose of the proposed measure is to establish a new financing policy for the operations of the Bonneville Power Administration and for the construction of new transmission facilities in the Pacific Northwest. . . .

It is apparent that a funding mechanism is necessary which provides greater assurance that the needs of the region for transmission capacity will be met and which has the flexibility to respond to changing requirements.

<sup>39</sup> *See* ColumbiaGrid, *2012 Update to the 2011 Biennial Transmission Expansion Plan*, pp. 4-6 (available at <http://www.columbiagrid.org/planning-expansion-overview.cfm>) and *Regional Transmission Projects – BPA and Other Utilities*, showing Bonneville's Network Open Season projects and projects proposed by other utilities and

planning and cost allocation process continues a history of regional cooperation and furthers the objectives of the Order No. 1000 reforms.

**d. Revised Attachment K, Part III, Section 8.1 and Part IV, Section 2 Substantially Conform, or Are Superior, to the *Pro Forma* Tariff**

As discussed below and in Appendix B to this Petition, the ColumbiaGrid cost allocation process complies with Order No. 1000. Bonneville supports the ColumbiaGrid cost allocation process and believes that the costs allocated by the ColumbiaGrid Order 1000 Cost Allocation Methodology should be supportable under sound business principles. At the same time, Bonneville must retain the ability to review each ColumbiaGrid cost allocation to Bonneville. If the Commission does not accept such review by Bonneville under the reciprocity standard, Bonneville may be unable to participate in the ColumbiaGrid regional transmission planning and cost allocation process, or any other Order No. 1000 regional planning and cost allocation process. If Bonneville is unable to participate in such a process, Order No. 1000 regional planning and cost allocation in the Pacific Northwest will not apply to 75 percent of the Northwest transmission system and transmission rate base, which could result in frustration of the Commission's policy in the Pacific Northwest. The revised ColumbiaGrid process incorporates the Order No. 1000 reforms to create an open and transparent cost allocation process that is consistent with Bonneville's statutory authorities. As such, Rev. Att. K, Part III, section 8.1, and Part IV, section 2, substantially conform or are superior to the *pro forma* OATT.

Bonneville agrees with the Commission that transmission planning is best conducted on a regional basis and that planning should address cost allocation. Bonneville urges the

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transmission developers in the Pacific Northwest (available at [http://transmission.bpa.gov/PlanProj/regional\\_tx\\_projects\\_map.pdf](http://transmission.bpa.gov/PlanProj/regional_tx_projects_map.pdf)).

<sup>40</sup> As provided in the Third Restated PEFA, section 1.56 and Rev. Att. K, App. A, section A.48, ColumbiaGrid is to maintain on its website a list of PEFA Planning Parties. *See* Order No. 1000-A, P 275.

Commission to accept Bonneville's revised Attachment K as meeting the Commission's reciprocity standard so that regional transmission planning, including cost allocation, may occur successfully in the Pacific Northwest.

**B. Non-Order No. 1000 Changes to Local Transmission Planning Process**

In addition to the revisions submitted in response to Order Nos. 1000 and 1000-A, Bonneville is proposing non-Order No. 1000 Attachment K revisions. The proposed non-Order No. 1000 Attachment K revisions represent refinements and improvements either to the local planning process itself or to the written organization and description of the process as provided through Bonneville's Attachment K.

As detailed below, Bonneville is proposing to modify the local planning process primarily by moving to an annual planning cycle that will be composed of the same five steps as are in the existing biennial cycle. Those steps are: (1) identifying assumptions and methodologies, (2) conducting a system assessment, (3) developing conceptual solutions to identified needs, (4) developing plans of service, and (5) updating the BPA Plan. Bonneville expects the annual cycle to (i) create enhanced coordination of current internal planning process timelines; (ii) ensure that updates to the BPA Plan are more responsive to potential changes in system conditions; and (iii) allow for better alignment with other area utilities and regional planning groups Attachment K processes. Moving to an annual planning cycle preserves the opportunity for stakeholder involvement currently available in the biennial process. Bonneville will continue to hold at least two public planning meetings per year and will continue to post the availability of the same quality and quantity of planning information currently provided in the biennial process.

Additionally, as detailed below, Bonneville is refining and improving the description of the local planning process in Bonneville's Attachment K by providing additional detail about various steps of the planning process.

Overall, the non-Order No. 1000 changes offer greater clarity to Bonneville's local planning process and address the change to an annual cycle. The elements that make up Bonneville's local planning process continue to meet the principles of Order No. 890, as identified in Bonneville's 2007,<sup>41</sup> 2008,<sup>42</sup> and 2009<sup>43</sup> Attachment K filings. A matrix that matches the non-Order No. 1000 changes in Bonneville's revised Attachment K to the Order No. 890 planning principles is attached as Appendix A. Accordingly, the non-Order No. 1000 revisions submitted in this filing substantially conform, or are superior to, the *pro forma* OATT.

**1. Revisions Resulting from Change to an Annual Planning Cycle (Part III, Section 2, Section 5, and Section 6)**

Bonneville is proposing to modify its local transmission planning process from a biennial cycle to an annual cycle. For the most part, the tariff language in Part III and the steps of the planning cycle remain the same. Although several sections within Part III have been reorganized and re-categorized, there are few substantive changes to the local planning process apart from modifying the biennial process to an annual cycle. The majority of the proposed non-Order No. 1000 changes effecting this change are in Part III, Sections 2 and 4. However, additional revisions have been made. References to the biennial planning process throughout revised Attachment K, Parts I, II, and III have been changed to annual.

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<sup>41</sup> *U.S. Dep't of Energy – Bonneville Power Admin.*, Petition for Declaratory Order, Docket No. NJ08-5-000 (Dec. 7, 2007). In its 2007 filing, Bonneville provided a table of Attachment K provisions that correspond to the Order No. 890 principles. Attached as Appendix A to this petition is an update to the local transmission planning column of that table, which identifies the Order No. 890 principles applicable to Bonneville's existing local planning process and revised local planning process.

<sup>42</sup> *U.S. Dep't of Energy – Bonneville Power Admin.*, Further Compliance Filing and Petition for Declaratory Order, Docket No. NJ08-5-001 (Oct. 15, 2008).

<sup>43</sup> *U.S. Dep't of Energy – Bonneville Power Admin.*, Further Compliance Filing; Petition for Declaratory Order; and Errata, Docket No. NJ08-5-003 (Sept. 14, 2009).

**a. Planning Steps**

Part III, Section 2 revisions eliminate the references describing the sequence of the planning process by years and add references describing the sequence of the planning process by steps. Bonneville's existing Attachment K local planning process is organized as Section 2.1 Year 1, Section 2.2 Year 2, and Section 2.3 Year 3. Revisions to section 2 result in listing the steps in sequence but without specific time frames for each in the annual cycle. The planning steps in the revised Attachment K are as follows: existing Section 2.1, which currently describes Year 1, is replaced with a new Section 2.1 Assumptions/Methodology; existing Section 2.2, which currently describes Year 2, is replaced with a new Section 2.2 System Assessment; and existing Section 2.3, which currently describes Year 3, is broken into new Section 2.3 Conceptual Solutions, new Section 2.4 Plans of Service, and new Section 2.5 BPA Plan.

Revised Section 2.1 addresses collecting information, developing the base case and the assumptions and methodologies. Although substantively the same as the existing Attachment K planning process, as revised, this planning step will be completed during the beginning of the annual planning cycle rather than over the first year of the biennial planning cycle. Accordingly, the subheading for Section 2.1 is revised from "Year 1" to "Assumptions/Methodology." Additionally, language addressing receiving stakeholder input, formerly in Section 2.2 Year 2, has been included in Section 2.1, along with the new language, described above, to address public policy requirements in response to Order No. 1000.

Revised Section 2.2 with the new subheading "System Assessment" has been added. The system assessment is conducted during Year 2 of the existing biennial planning cycle. As revised, the system assessment will be conducted mid-year during the annual cycle after completion of the Assumptions/Methodology step.

Under existing Section 2.3, Year 3, conceptual solutions are identified, followed by development of draft plans of service, and then updating the BPA plan. As revised, these three steps will be completed as the last three steps of the annual cycle after completion of the system assessment. Accordingly, the following revised sections replace Section 2.3 Year 3: revised Section 2.3 “Conceptual Solutions”; revised Section 2.4 “Plans of Service,” and revised Section 2.5 “BPA Plan.”

**b. Planning Meetings and Related Postings**

Additionally, existing Section 5, which governs planning meetings and postings, is revised to reflect the change to the annual planning cycle, as well as to clarify posting requirements and the opportunity for stakeholder involvement. As revised, public meetings will be held at least twice yearly within the annual planning cycle, in place of four times within the existing biennial cycle. Bonneville will continue to post the availability of the same planning information it shares with stakeholders under the existing biennial cycle. The meetings currently are tied to the biannual posting requirements. The subject matter addressed in the existing four-meeting process will be condensed into the two meetings that will be held in the new revised annual cycle. The headings in new section 5 have been revised accordingly.

**c. Customer Information**

Section 6.1 also is revised due to the annual cycle. Existing Section 6.1 obligates customers to provide information by March 1 of Year 3 of the planning cycle. As revised, Section 6.1 requires customers to provide the information on an annual basis.

**2. Revisions Resulting from Modification to the Economic Studies Process (Part III, Section 3)**

Bonneville is revising Section 3.2(ii) to state that if Bonneville has not received a new request for a high priority economic study, Bonneville will update the most recent priority

economic study upon request. Economic studies are performed for the benefit of customers. The existing Attachment K economic studies process obligates Bonneville to update the most recent priority economic study during each planning cycle if no new high priority economic study requests have been received. Based on Bonneville’s experience conducting Attachment K economic studies during the last several years, Bonneville believes revising the most recent economic study in the absence of stakeholder interest is unnecessary and inefficient.

**3. Refinements to the Description of the Local Planning Process for Clarity (Part III, Section 2)**

Additional changes to the description of the local planning process are proposed in order to offer greater clarity and transparency. These changes are detailed below.

**a. Planning Steps (Part III, Section 2)**

Section 2.1.2 was revised to explain that the Transmission Provider participates in the development of WECC base cases in preparation for performing the system assessment by providing customer information to the WECC Northwest Area Coordinator, ColumbiaGrid. These revisions more accurately describe the interaction with the WECC process during this step of the local planning process.

The description of system assessment in Section 2.2.1 has been revised to better explain that the assessment is a comprehensive system evaluation designed to identify potential deficiencies in system performance and other needs for system reinforcement.

Section 2.5, the “BPA Plan,” is revised to explain that Bonneville evaluates a proposed alternative solution to determine whether it should be further developed into a plan of service. Additionally, the criteria used for evaluating solutions for inclusion in the BPA Plan (new Section 2.5) has been expanded to include consideration of “the degree to which the alternative addresses one or more of the Transmission Provider’s Needs.” As explained above, this

language incorporates the consideration of Public Policy Requirements into the local planning process in response to Order No. 1000. It also reflects that the local planning process takes into account more than reliability needs.

**b. Economic Study Process (Part III, Sections 2 and 8)**

Tariff provisions addressing the economic study process have been reorganized. Provisions addressing economic studies, currently spread throughout existing Sections 2 and 8, have been removed and combined into a single section (Section 3) to reflect that economic studies are performed using a process that is distinct from, but may be simultaneous to, the other steps of the planning process. These revisions add clarity and are more concise because some provisions in existing Sections 2 and 8 are duplicative.

**c. Miscellaneous (Part III, Sections 4 and Appendix A (Definitions))**

The section heading in existing Section 3 (Planning Criteria) was revised to a new Section 4 (Transmission Provider’s Planning Criteria). Additional revisions are made to the Section 4 description of applicable planning standards and criteria to more accurately identify applicable reliability criteria.

Additionally, the revisions in Att. K, Appendix A (Definitions) are proposed for purposes of clarity. The existing term “Planning Criteria” is revised to “Transmission Provider’s Planning Criteria” to clarify that the applicable criteria are derived from the Transmission Provider and not ColumbiaGrid. Further, the existing term “Needs” is revised to “Transmission Provider’s Needs.” The definition remains largely the same, except that language was added to address the Order No. 1000 requirement to consider Public Policy Requirements in the local planning process.

### **III. CHANGES TO THE COLUMBIAGRID TRANSMISSION PLANNING PROCESS**

#### **A. Background**

Avista and PSE have submitted the Third Restated PEFA for acceptance by the Commission to facilitate compliance with Order No. 1000 by the ColumbiaGrid Planning Parties. Bonneville understands that Avista and PSE submitted identical filing letters with the Third Restated PEFA. A copy of Avista's filing letter is attached to this Petition as Appendix B ("Appendix B"). Avista's filing letter provides additional background for the Third Restated PEFA. Bonneville requests that the Commission consider Appendix B in its review of Bonneville's revised Attachment K, Part IV.<sup>44</sup>

Bonneville's existing Attachment K, Part IV reflected language from previous versions of the PEFA. The revisions incorporated in Part IV of Bonneville's revised Attachment K largely incorporate changes that were made to the PEFA by the Third Restated PEFA.

Because Appendix B describes the changes in the Third Restated PEFA in greater detail, the following discussion regarding the changes to the ColumbiaGrid transmission planning process that are reflected in Part IV of Bonneville's revised Attachment K will focus on three areas and include citations to Part IV of Bonneville's revised Attachment K. The following discussion is broken into three major headings that correspond to certain categories identified in Order No. 1000: changes to the evaluation of alternatives at the regional level,<sup>45</sup> consideration of transmission needs driven by Public Policy Requirements,<sup>46</sup> and cost allocation.<sup>47</sup> Because sponsor and project qualification criteria, submission and evaluation of proposals for Order 1000 cost allocation, and application of the Order 1000 cost allocation methodology are all related to

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<sup>44</sup> Capitalized terms used in the part of this Petition describing Changes to the ColumbiaGrid Transmission Planning Process shall have the meaning as defined in the Third Restated PEFA, unless otherwise defined herein.

<sup>45</sup> Order No. 1000 at P 78-80.

<sup>46</sup> *Id.* at P 82.

<sup>47</sup> *Id.* at P 495.

cost allocation, they are covered below under the cost allocation heading instead of under the Order No. 1000 category of non-incumbent developer reforms. Additionally, Bonneville notes that there is no federal right of first refusal in the ColumbiaGrid planning region, and, consequently, it is not addressed in this Petition.

## **B. Changes to Evaluation of Alternatives at the Regional Level**

The existing PEFA, on which Part IV of Bonneville’s existing Attachment K is based, already provides a process for evaluation of transmission and non-transmission alternatives at the regional level.<sup>48</sup>

The changes incorporated in the Third Restated PEFA to comply with Order No. 1000 accomplish four significant changes to the existing PEFA process for evaluation of alternatives at the regional level.

### **1. Change in the System Assessment Process from Specifically Considering Only Reliability Needs to Considering a Broad Range of Transmission Needs<sup>49</sup>**

Each year, ColumbiaGrid performs a system assessment to screen for potential inconsistency with reliability criteria during the planning horizon on the systems of PEFA parties. Under the Third Restated PEFA, the annual system assessment<sup>50</sup> will consider reliability (need for an Existing Obligation Project or for a Single System Project that is planned to meet a reliability need), requested service (need for a Requested Service Project), and economic

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<sup>48</sup> See *ColumbiaGrid*, 119 FERC ¶ 61,007, P 25 (2007) (“The Commission supports this effort to coordinate planning activities on a regional basis and, in particular, implementation of a single planning process for both public utility and non-public utility transmission providers. The increased coordination and transparency contemplated by the Planning Agreement have the potential to improve reliability, operational efficiency, and expansion of the transmission grid.”); *ColumbiaGrid*, unpublished letter order, Docket No. ER10-585-000 (Mar. 3, 2010). The Commission accepted Bonneville’s Attachment K revisions regarding evaluation of transmission and non-transmission alternatives at the regional level in *U.S. Dep’t. of Energy – Bonneville Power Admin.*, 130 FERC ¶ 61,260 (2010).

<sup>49</sup> See Order No. 1000 at P 220 (“Other public utility transmission providers might comply with this Final Rule by identifying and evaluating all transmission needs. . .”).

<sup>50</sup> Third Restated PEFA, App. A, section 3.1.1(i) and (ii); Rev. Att. K, Part IV, section 4.1.1(i) and (ii).

(Capacity Increase) project needs, specifically including needs for any of the foregoing types of projects that are driven by Public Policy Requirements.<sup>51</sup> The system assessment process also provides opportunities for stakeholders to submit their suggestions for all types of transmission needs, including transmission needs driven by Public Policy Requirements.<sup>52</sup>

## 2. Use of Need Factors

Order No. 1000 requires adoption of “a just and reasonable and not unduly discriminatory process through which public utility transmission providers will identify, out of this larger set of needs, those needs for which transmission solutions will be evaluated.”<sup>53</sup> ColumbiaGrid and the Planning Parties have chosen to implement this requirement by listing selection factors that will be included in determining which Potential Needs<sup>54</sup> identified by stakeholders and others will be selected for inclusion in the system assessment.<sup>55</sup> If the Planning Parties, Interested Persons, and ColumbiaGrid reach consensus on the selected Needs, that consensus determines which Needs will move forward in the planning process. If they do not reach consensus, ColumbiaGrid will select the Needs that will move forward.<sup>56</sup> For each Need that is selected for the system assessment, ColumbiaGrid will prepare a draft Need Statement that will include, among other things, one or more conceptual transmission solutions to address the Need.<sup>57</sup> After review of the System Assessment Report and the Need Statements by the ColumbiaGrid Board,<sup>58</sup> the Need

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<sup>51</sup> Third Restated PEFA, App. A, section 3.1.1(ii); Rev. Att. K, Part IV, section 4.1.1(ii). The definition of Need includes Needs of all project types, including those driven by Public Policy Requirements. Third Restated PEFA, section 1.29; Rev. Att. K, App. A, section A.23.

<sup>52</sup> See Third Restated PEFA, App. A, section 3.1.1; Rev. Att. K, Part IV, section 4.1.1 (“ColumbiaGrid, in coordination with . . . Interested Persons. . .”) and Third Restated PEFA, App. A, section 3.1.1(ii)a.2; Rev. Att. K, Part IV, section 4.1.1(ii)a.2.

<sup>53</sup> Order No. 1000, P 209.

<sup>54</sup> Potential Needs are defined in Third Restated PEFA, section 1.29; Rev. Att. K, App. A, section A.23.

<sup>55</sup> Third Restated PEFA, App. A, section 2.2; Rev. Att. K, Part IV, section 3.2.

<sup>56</sup> Third Restated PEFA, App. A, section 3.1.6; Rev. Att. K, Part IV, section 4.1.6.

<sup>57</sup> Third Restated PEFA, App. A, section 3.1.6; Rev. Att. K, Part IV, section 4.1.6.

<sup>58</sup> Third Restated PEFA, App. A, sections 3.1.9 and 3.1.10; Rev. Att. K, Part IV, sections 4.1.9 and 4.1.10.

Statements will be considered by Study Teams when developing plans of service to address the Needs.<sup>59</sup>

### **3. Use of Solution Evaluation Factors**

Order No. 1000 specifies that “public utility transmission providers are required to identify how they will evaluate and select from competing solutions and resources such that all types of resources are considered on a comparable basis.”<sup>60</sup> As described in Appendix B, the PEFA parties have chosen to implement this requirement by expanding the factors that the Study Team uses to evaluate both transmission and non-transmission alternative solutions to a Need.<sup>61</sup>

### **4. Study Teams Are to Assess Whether There Is a More Cost-Effective and Efficient Solution for Meeting a Need.**

Although the existing PEFA requires ColumbiaGrid to conduct planning activities using a single-utility planning approach designed to “enhance efficiency and reduce . . . costs”,<sup>62</sup> the PEFA parties propose specifically to apply to Study Teams the Order No. 1000 requirement “to evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.”<sup>63</sup> The Study Teams are to “assess whether there is a solution that is a more cost-effective and efficient alternative, applying such [solution evaluation] factors, to address

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<sup>59</sup> Third Restated PEFA, App. A, section 4.1; Rev. Att. K, Part IV, section 5.1.

<sup>60</sup> Order No. 1000 at P 155.

<sup>61</sup> The solution evaluation factors are listed in Third Restated PEFA, App. A, section 2.3, and in Rev. Att. K, Part IV, section 3.3. Their applicability to non-transmission alternatives is stated in Third Restated PEFA, App. A, section 2.4, and in Rev. Att. K, Part IV, section 3.4. Use of the solution evaluation factors by Study Teams is required by Third Restated PEFA, App. A, section 4.1, and in Rev. Att. K, Part IV, section 5.1.

<sup>62</sup> The Third Restated PEFA retains the same language in section 3(i).

<sup>63</sup> Order No. 1000 at P 148.

Need(s).”<sup>64</sup> Study Teams are open to stakeholders,<sup>65</sup> and participating stakeholders may propose solutions during the Study Team process.<sup>66</sup>

### **C. Consideration of Transmission Needs Driven by Public Policy Requirements**

The Third Restated PEFA adopts the Commission’s definition of Public Policy Requirements.<sup>67</sup>

The Commission required identification of potential transmission needs driven by Public Policy Requirements, including an opportunity for stakeholder input into such identification;<sup>68</sup> a process to select, from among the identified potential needs, those needs for which the regional transmission planning process will consider transmission solutions;<sup>69</sup> and a process to evaluate potential solutions for those selected needs.<sup>70</sup> The Third Restated PEFA addresses all those requirements. ColumbiaGrid transmission owner or operator parties (TOPPs) and stakeholders may identify Potential Needs,<sup>71</sup> which include transmission needs driven by Public Policy Requirements.<sup>72</sup> The selection process described above, which uses Need factors, will determine which Potential Needs, including Potential Needs driven by Public Policy Requirements, will be selected for planning of transmission solutions. Stakeholders will be informed if their identified transmission needs driven by Public Policy Requirements were not selected and of the basis for non-selection.<sup>73</sup> Study Teams will attempt to develop solutions for selected Needs using the process described above.

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<sup>64</sup> Third Restated PEFA, App. A, section 4.1; Rev. Att. K, Part IV, section 5.1.

<sup>65</sup> Third Restated PEFA, section 1.67(iii); Rev. Att. K, App. A, section A.59(iii).

<sup>66</sup> Third Restated PEFA, App. A, section 4.1(ii); Rev. Att. K, Part IV, section 5.1(ii).

<sup>67</sup> Compare Order No. 1000 at P 2 with Third Restated PEFA, section 1.58 and Rev. Att. K, App. A, section A.51.

<sup>68</sup> Order No. 1000 at P 203.

<sup>69</sup> *Id.* at P 209.

<sup>70</sup> *Id.* at P 205.

<sup>71</sup> Third Restated PEFA, App. A, section 3.1.1(ii)a; Rev. Att. K, Part IV, section 4.1.1(ii)a.

<sup>72</sup> Third Restated PEFA, section 1.29; Rev. Att. K, App. A, section A.23.

<sup>73</sup> Third Restated PEFA, App. A, section 3.1.1(ii)b; Rev. Att. K, Part IV, section 4.1.1(ii)b.

## **D. Order No. 1000 Cost Allocation**

This part of the Petition will briefly describe the steps in the ColumbiaGrid Order No. 1000 cost allocation process.

### **1. Request for Cost Allocation**

A project sponsor seeking Order No. 1000 cost allocation must submit a request.<sup>74</sup> Although a request is considered timely if submitted up to 60 days after a Study Team final report including the plan of service for the project for which the request is submitted,<sup>75</sup> a request may be submitted earlier in the planning process, including prior to the system assessment. One exception to the foregoing deadline is that a Single System Project sponsor requesting Order No. 1000 cost allocation must do so by the time it requests formation of a Study Team.<sup>76</sup>

### **2. Sponsor Qualification**

An Order No. 1000 Sponsor must submit information to establish its sponsor qualifications at or before the time the sponsor requests Order No. 1000 cost allocation.<sup>77</sup> The Third Restated PEFA requires any sponsor that requests Order No. 1000 cost allocation be a party to the PEFA at the time of the request and to submit evidence of other qualifications.<sup>78</sup> If ColumbiaGrid finds the sponsor does not meet the qualifications, the sponsor will have 30 days after such determination to correct the deficiency.<sup>79</sup>

### **3. Project Information**

A project qualifying for Order No. 1000 cost allocation must have been included in a plan of service developed by a Study Team.<sup>80</sup> The project sponsor would have been responsible for

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<sup>74</sup> Third Restated PEFA, App. A, section 10.1; Rev. Att. K, Part IV, section 11.1.

<sup>75</sup> Third Restated PEFA, App. A, section 10.1.1; Rev. Att. K, Part IV, section 11.1.1.

<sup>76</sup> Third Restated PEFA, App. A, section 10.1.1; Rev. Att. K, Part IV, section 11.1.1.

<sup>77</sup> Third Restated PEFA, App. A, section 10.1.2.1(ii)b; Rev. Att. K, Part IV, section 11.1.2.1(ii)b.

<sup>78</sup> Third Restated PEFA, App. A, section 10.1.2.2; Rev. Att. K, Part IV, section 11.1.2.2.

<sup>79</sup> Third Restated PEFA, App. A, section 10.1.2.1(ii)a; Rev. Att. K, Part IV, section 11.1.2.1(ii)a.

<sup>80</sup> Third Restated PEFA, App. A, section 10.1.2.1(i)c; Rev. Att. K, Part IV, section 11.1.2.1(i)c.

providing the Study Team with sufficient information for the Study Team to evaluate the project.<sup>81</sup> Typically, a project sponsor will lead the Study Team analysis of its project,<sup>82</sup> so the sponsor should not be at a disadvantage in the Study Team decision process regarding whether the sponsor has submitted sufficient information to the Study Team. The sponsor must also ensure submission, by the time of the request for Order No. 1000 cost allocation, of project data and development schedule indicating required steps, such as granting of state, federal, and local approvals necessary to develop and construct the project to timely meet the Need(s).<sup>83</sup>

#### **4. Project Selection**

Within 30 days after the later of the submittal of the request for Order No. 1000 cost allocation or the date of the final report of the Study Team that includes the project in its plan of service, ColumbiaGrid staff will issue for 30 day comment a preliminary determination<sup>84</sup> as to whether the project for which Order No. 1000 cost allocation was requested has met the selection criteria for an Order No. 1000 Project and therefore qualifies as an Order No. 1000 Project. The staff will review any comments and may modify its determination before submittal to the ColumbiaGrid Board.<sup>85</sup>

The selection criteria include whether the project: meets the Need(s) to be addressed by the plan of service, is confirmed by the Study Team or ColumbiaGrid to be the more cost effective and efficient solution to meet the Need(s), has been included in the Study Team plan of service, and had timely submission of an Order No. 1000 cost allocation request and of necessary sponsor qualification information and project information.<sup>86</sup>

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<sup>81</sup> Third Restated PEFA, App. A, section 4.1(ii); Rev. Att. K, Part IV, section 5.1(ii).

<sup>82</sup> Third Restated PEFA, App. A, section 4.3; Rev. Att. K, Part IV, section 5.4.

<sup>83</sup> Third Restated PEFA, App. A, section 10.1.2.1(ii)b; Rev. Att. K, Part IV, section 11.1.2.1(ii)b.

<sup>84</sup> Third Restated PEFA, App. A, section 10.1.2; Rev. Att. K, Part IV, section 11.1.2(i).

<sup>85</sup> Third Restated PEFA, App. A, section 10.1.2; Rev. Att. K, Part IV, section 11.1.2(i).

<sup>86</sup> Third Restated PEFA, App. A, section 10.1.2.1(i); Rev. Att. K, Part IV, section 11.1.2.1.

## 5. Opportunity for Voluntary Implementation

Once a project has been qualified as an Order No. 1000 Project, the Third Restated PEFA provides a period of six months, or longer if the sponsor and affected parties agree, to negotiate a project agreement, including responsibility for funding.<sup>87</sup> The PEFA negotiated agreement process already has proven successful in furthering the Commission’s goals of developing regional transmission solutions.<sup>88</sup> If the parties are unable to reach agreement, ColumbiaGrid will apply the Order No. 1000 cost allocation methodology.<sup>89</sup>

## 6. Application of Order No. 1000 Cost Allocation Methodology

The ColumbiaGrid Order 1000 Cost Allocation Methodology<sup>90</sup> consists of the following steps: (1) projection by ColumbiaGrid of the costs of the Order 1000 Project;<sup>91</sup> (2) analyzing and calculating the Order 1000 Benefits of each of the Order 1000 Beneficiaries;<sup>92</sup> and (3) allocating the Order 1000 Project costs to the Order 1000 Beneficiaries commensurately with their benefits.<sup>93</sup>

ColumbiaGrid staff will then prepare a draft Preliminary Order 1000 Cost Allocation Report, provide a 30-day opportunity for written comments, and address the comments in the

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<sup>87</sup> Third Restated PEFA, App. A, section 10.2; Rev. Att. K, Part IV, section 11.2.

<sup>88</sup> Affected PEFA parties have approved transmission improvements in the Puget Sound and Mid-Columbia areas through negotiated agreement resulting from work of Study Teams. See *ColumbiaGrid*, 2012 Update to the 2011 Biennial Transmission Expansion Plan, at 11–15 (Feb. 2012).

<sup>89</sup> Third Restated PEFA, App. A, section 10.2; Rev. Att. K, Part IV, section 11.2.

<sup>90</sup> Third Restated PEFA, section 1.40; Rev. Att. K, App. A, section A.34.

<sup>91</sup> Third Restated PEFA, App. A, section 10.3.1; Rev. Att. K, Part IV, section 11.3.1. “Order 1000 Project” is defined in Third Restated PEFA, section 1.43; Rev. Att. K, App. A, section A.37.

<sup>92</sup> Third Restated PEFA, App. A, section 10.3.2.1 and 10.3.2.2; Rev. Att. K, Part IV, section 11.3.2.1 and 11.3.2.2. “Order 1000 Benefits” is defined in Third Restated PEFA, section 1.37; Rev. Att. K, App. A, section A.31. “Order 1000 Beneficiary” is defined in Third Restated PEFA, section 1.36; Rev. Att. K, App. A, section A.30.

<sup>93</sup> Third Restated PEFA, App. A, section 10.3.3; Rev. Att. K, Part IV, section 11.3.3.

Preliminary Cost Allocation Report that is submitted to the ColumbiaGrid Board for approval, modification, or remand to ColumbiaGrid staff.<sup>94</sup>

Steps 1 and 2 in the ColumbiaGrid Order 1000 Cost Allocation Methodology, *i.e.*, (1) projection by ColumbiaGrid of the costs of the Order 1000 Project; and (2) analyzing and calculating the Order 1000 Benefits of each of the Order 1000 Beneficiaries, are similar to the steps Bonneville used in conducting the embedded cost rate determination in Bonneville's 2008 Network Open Season ("NOS").<sup>95</sup> Bonneville's decision document for NOS included the following explanation with respect to those NOS projects that were moving forward because they created relatively insignificant impacts on embedded cost transmission rates: "To estimate the embedded cost rate impacts, BPA performed a net present value analysis of the costs of the eight projects, after deducting the value of reliability benefits to the Integrated Network, and adding the revenues received from the NOS TSRs that would receive service over each project."<sup>96</sup> The benefits Bonneville considered in its business decision whether to proceed with certain 2008 NOS projects at embedded cost rates were similar to the types of benefits in the Third Restated PEFA: avoided or deferred costs and increased revenues.<sup>97</sup> Thus, the benefits

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<sup>94</sup> Third Restated PEFA, App. A, sections 10.4 and 10.5; Rev. Att. K, Part IV, sections 11.4 and 11.5. "Order 1000 Cost Allocation Report" and "Order 1000 Preliminary Cost Allocation Report" are defined in Third Restated PEFA, sections 1.41 and 1.42; Rev. Att. K, App. A, sections A.35 and A.36.

<sup>95</sup> See *Bonneville Power Admin.*, 123 FERC ¶ 61,264 (2008).

<sup>96</sup> *Bonneville Power Admin.*, 2008 NOS Decision Letter, App. A, at 6 (available at [http://transmission.bpa.gov/Customer\\_Forum/open\\_season/docs/Attachment\\_A\\_-\\_Rationale\\_of\\_Rate\\_Treatment.pdf](http://transmission.bpa.gov/Customer_Forum/open_season/docs/Attachment_A_-_Rationale_of_Rate_Treatment.pdf)) and Network Open Season Commercial Infrastructure Financing Policy Summary, slide 11 (Dec. 9, 2008) (available at [http://transmission.bpa.gov/Customer\\_Forum/open\\_season/docs/NOS\\_CI\\_Financing\\_Policy\\_Summary\\_12\\_09\\_2008.pdf](http://transmission.bpa.gov/Customer_Forum/open_season/docs/NOS_CI_Financing_Policy_Summary_12_09_2008.pdf)). Even with a reasonable cost allocation methodology such as that in the 2008 NOS, Bonneville retains the ability to review whether to proceed with the projects, so that Bonneville does not incur costs inappropriately. See 2008 NOS Precedent Transmission Service Agreement, section 5(d)(2):

(2) **Decision to Build.** In the event that Bonneville must construct new facilities or facility upgrades to provide the requested service, to satisfy this requirement Bonneville decides, in its sole discretion, after completing environmental review, to build such facilities.

<sup>97</sup> Third Restated PEFA, section 1.37; Rev. Att. K, App. A, section A.31.

that would be considered in the ColumbiaGrid Order 1000 Cost Allocation Methodology may be consistent with sound business principles.

Application of the ColumbiaGrid Order 1000 Cost Allocation Methodology, including the definition of Order 1000 Benefits, could assist project sponsors and other beneficiaries to reach agreement to proceed with projects. It will focus sponsors on the types of benefits that Bonneville and other regional utilities consider in making investment decisions, thus assisting the ColumbiaGrid Study Team to reach consensus on a plan of service.

The ColumbiaGrid regional transmission planning and cost allocation process incorporates the Order No. 1000 reforms to create an open and transparent cost allocation process that is consistent with regional practices and with Bonneville's statutory authorities. Therefore, the revisions to Part IV of Bonneville's Attachment K substantially conform or are superior to the *pro forma* OATT.

#### IV. CONCLUSION

Bonneville respectfully requests that:

(1) the Commission accept its proposed changes to Attachment K to comply with Order No. 1000 as substantially conforming or superior to the *pro forma* tariff, and ;

(2) the Commission accept its changes to its local planning process that are not related to Order No. 1000 as substantially conforming or superior to the Order No. 890 planning principles; and

(3) the Commission waive the filing fee.

DATED October 11, 2012.

Respectfully submitted,

/s/ Charles H. Combs

Charles H. Combs

Jennifer Gingrich

Attorney-Advisors

Bonneville Power Administration

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**APPENDIX A**

**Table of Revised Non-Order 1000 Attachment K Provisions (Local Planning Process)**

**Corresponding to Principles in Order No. 890**

**Appendix A to the Petition for Reciprocity Approval of Amendments to Attachment K  
TABLE OF REVISED NON-ORDER 1000 ATTACHMENT K PROVISIONS (LOCAL PLANNING PROCESS)  
CORRESPONDING TO PRINCIPLES IN ORDER NO. 890**

| <b>Order 890 Planning Principle</b> | <b>Existing Attachment K Provision –<br/><i>Local Planning Process</i></b>    | <b>Revised Attachment K Provision –<br/><i>Local Planning Process</i></b>                                       |
|-------------------------------------|---|---|
| <b>COORDINATION</b>                 | Sections III.2 and 5  | Sections III.2 and 5  |
| <b>OPENNESS</b>                     | Sections III.2 and 5  | Sections III.2 and 5  |
| <b>TRANSPARENCY</b>                 | Sections III.2.1.3, 2.1.5, 2.2.1, 2.2.4, 2.3.2, 2.3.6, 2.3.7, 3, 5.2, and 5.3 | Sections III.2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.7, 2.3.1, 2.2.2, 2.3.2, 2.4.1, 2.4.2, 2.5.2, 2.5.3, 3.2, 3.3, 4, 5 |
| <b>INFORMATION EXCHANGE</b>         | Section III.6   | Section III.6   |
| <b>COMPARABILITY</b>                | Part III  | Part III  |
| <b>DISPUTE RESOLUTION</b>           | Part VI   | Part VI   |
| <b>REGIONAL PARTICIPATION</b>       | Sections III.2, 3, and 5; Section IV.14; and Part V                           | Section III.2, 3, and 5; Section IV.16; Part V  |
| <b>ECONOMIC STUDIES</b>             | Section III.8   | Section III.3   |
| <b>COST ALLOCATION</b>              | Sections III.9; Section IV.5.4, 6.4, 8.4, 10.4.1.1.2, 10.4.1.2.2, and 11      | Sections III.8; Sections IV. 6.4, 7.4, 9.4, 11.3, 12.4.1.1.2, 12.4.1.2.2, 13                                    |

**APPENDIX B**

**Avista Filing Letter for the Third Restated PEFA  
(Including a Copy of the Third Restated PEFA)**



October 11, 2012

**Via Electronic Filing**

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

Re: *Avista Corporation*, Docket No. ER13-\_\_\_\_-000  
ColumbiaGrid Third Amended and Restated Planning and Expansion Functional  
Agreement

Dear Secretary Bose:

Pursuant to section 35.13 of the Federal Energy Regulatory Commission's ("Commission") regulations<sup>1</sup> and section 205 of the Federal Power Act,<sup>2</sup> Avista Corporation ("Avista") hereby submits the ColumbiaGrid Third Amended and Restated Planning and Expansion Functional Agreement ("Third Restated PEFA") for filing as Avista's Rate Schedule FERC No. CG1. The pre-Order 1000 ColumbiaGrid Planning and Expansion Functional Agreement ("pre-Order 1000 PEFA") has been amended and restated to facilitate compliance with Order No. 1000<sup>3</sup> by ColumbiaGrid Planning Parties,<sup>4</sup> including Avista, that participate in the ColumbiaGrid regional planning process. Contemporaneously with this filing, Avista is also submitting a revised Attachment K to its Open Access Transmission Tariff ("Tariff") in compliance with Order No. 1000 ("Order 1000 Compliance Filing"). With regard to regional transmission planning, Avista's Attachment K relies, in substantial part, on Avista's participation in the ColumbiaGrid regional transmission planning process under the provisions of the Third Restated PEFA to achieve compliance with Order No. 1000.

Avista makes this submittal of the Third Restated PEFA for Commission acceptance contemporaneously with Avista's Order 1000 Compliance Filing. As more fully discussed below, Avista respectfully requests that the Commission consider this submittal of the Third

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<sup>1</sup> 18 C.F.R. § 35.13.

<sup>2</sup> 16 U.S.C. § 824d.

<sup>3</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 Fed. Reg. 49,842 (Aug. 11, 2011), 136 FERC ¶ 61,051 (2011), *order on reh'g*, Order No. 1000-A, 77 Fed. Reg. 32,184 (May 31, 2012), 139 FERC ¶ 61,132 (2012).

<sup>4</sup> Capitalized terms used herein shall have the meaning as defined in the PEFA, unless otherwise defined herein.

Restated PEFA in conjunction with Avista's Order 1000 Compliance Filing and, if the conditions set forth in section 17.1 of the Third Amended PEFA discussed below are satisfied, accept the Third Restated PEFA as Avista Rate Schedule FERC No. CG1 with an effective date of October 11, 2012.<sup>5</sup>

## I. BACKGROUND

### A. Overview of ColumbiaGrid Planning Parties

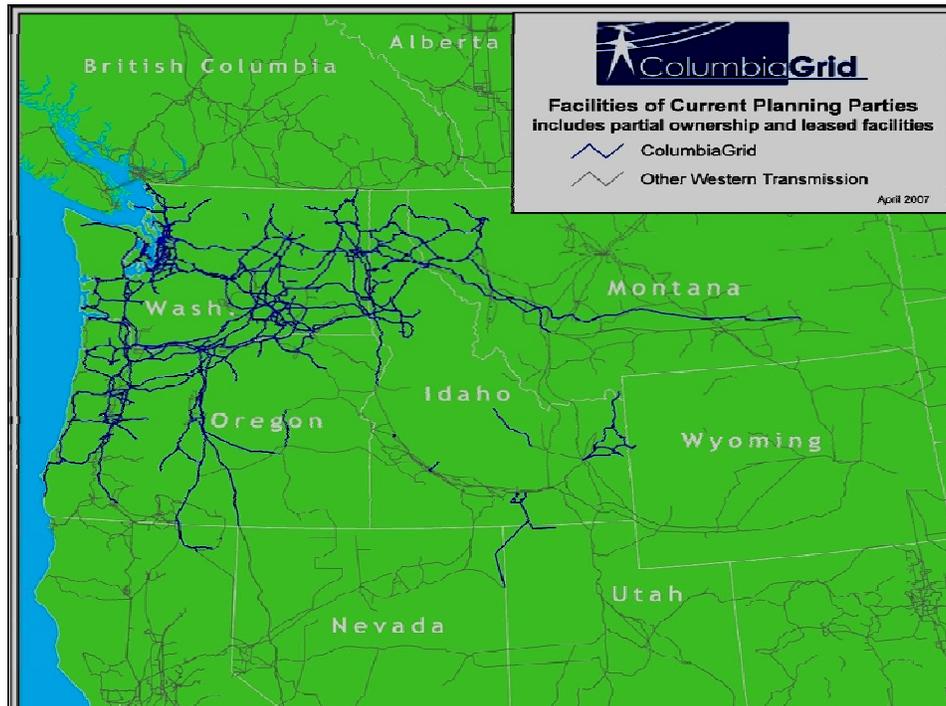
ColumbiaGrid is a non-profit corporation that was formed in 2006 to better provide regional planning within the Pacific Northwest. ColumbiaGrid is a regional transmission planning entity with a Staff with expertise in regional planning and a functionally independent Board. The Planning Parties are those entities that are agreeing, as signatories to the Third Restated PEFA, to participate in the ColumbiaGrid regional planning process under the Third Restated PEFA. The present Planning Parties are Avista; PSE; Enbridge, Inc.<sup>6</sup>; Bonneville Power Administration ("BPA"); Public Utility District No. 1 of Chelan County, Washington; Public Utility District No. 1 of Cowlitz County, Washington; Public Utility District No. 1 of Douglas County, Washington; Public Utility District No. 2 of Grant County, Washington; Public Utility District No. 1 of Snohomish County, Washington; The City of Seattle, by and through its City Light Department; and City of Tacoma, Department of Public Utilities, Light Division (dba Tacoma Power). The ColumbiaGrid Planning Parties are a diverse mix of jurisdictional entities (public utilities) and non-jurisdictional entities.

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<sup>5</sup> In early 2007, ColumbiaGrid initially filed the ColumbiaGrid Planning and Expansion Functional Agreement ("PEFA") on behalf of Avista and Puget Sound Energy, Inc. ("PSE"), as ColumbiaGrid Rate Schedule No. 1. The Commission first accepted the PEFA in an order issued on April 3, 2007. *ColumbiaGrid*, 119 FERC ¶ 61,007 (2007). Since that time, the PEFA has been amended twice and ColumbiaGrid has filed those amendments with the Commission on behalf of Avista and PSE. Those amendments were accepted by the Commission. *See ColumbiaGrid*, Letter Order (unpublished), Docket No. ER08-457 (Mar. 12, 2008); *ColumbiaGrid*, Letter Order (unpublished), Docket No. ER10-585 (Mar. 3, 2010). When the Third Restated PEFA's filed by both Avista and PSE as their individual rate schedules become effective in accordance with section 17.1 of the Third Restated PEFA, Avista anticipates that ColumbiaGrid will take appropriate steps to terminate ColumbiaGrid Rate Schedule No. 1.

<sup>6</sup> It is Avista's understanding that Enbridge, Inc. is assigning its rights and obligations under the Third Revised PEFA to MATL, LLP.

Map of ColumbiaGrid Planning Parties' Transmission Facilities



**B. The pre-Order 1000 PEFA**

The ColumbiaGrid Planning Parties have conducted regional transmission planning pursuant to the pre-Order 1000 PEFA, which was originally developed through a stakeholder process that began in January 2006. Beginning in 2006, process groups, which met in open, public meetings, were assembled to develop the pre-Order 1000 PEFA. Throughout 2006, ColumbiaGrid conducted several open, comment workshops on the draft pre-Order 1000 PEFA to discuss the agreement and answer questions. The drafts of the pre-Order 1000 PEFA were posted on the ColumbiaGrid website as they were completed and made available for public comment. In addition, after soliciting written comments on the draft pre-Order 1000 PEFA, ColumbiaGrid posted a written response to the comments detailing those proposed changes that were incorporated into the agreement or reasons why a change was not adopted. As shown through this development, the pre-Order 1000 PEFA is a product of the region that reflects the diverse interests in the region.

ColumbiaGrid filed the pre-Order 1000 PEFA at the Commission on behalf of Avista and PSE, and the Commission accepted the initial pre-Order 1000 PEFA on April 3, 2007.<sup>7</sup> In accepting the pre-Order 1000 PEFA, the Commission explained:

The Commission supports this effort to coordinate planning activities on a regional basis and, in particular, implementation of a single planning

<sup>7</sup> ColumbiaGrid, 119 FERC ¶ 61,007 (2007).

process for both public utility and non-public utility transmission providers. The increased coordination and transparency contemplated by the [pre-Order 1000 PEFA] have the potential to improve reliability, operational efficiency, and expansion of the transmission grid.<sup>8</sup>

The original filing of the pre-Order 1000 PEFA occurred prior to the Commission's issuance of Order No. 890.<sup>9</sup> In Order No. 890, the Commission amended the *pro forma* Open Access Transmission Tariff ("OATT") to include a new Attachment K that provided for coordinated, open, and transparent transmission planning on both a regional and local level and established specific compliance procedures for public utilities to implement those planning processes.

To comply with Order No. 890, Avista and PSE separately filed Attachment Ks to their OATTs, which set forth their local and regional transmission planning processes and incorporated the substance of the essential features of the planning process under the pre-Order 1000 PEFA. In addition, BPA filed a petition for declaratory order with the Commission seeking a finding that its Safe Harbor Tariff, also revised to include the pre-Order 1000 PEFA processes, satisfied the requirements of Order No. 890. Ultimately, the Commission accepted the Attachment K filings of Avista and PSE and the Safe Harbor Tariff revisions of BPA as compliant with Order No. 890.<sup>10</sup>

To maintain consistency with the revisions prompted by the Commission, ColumbiaGrid, on behalf of Avista and PSE, filed revisions to the pre-Order 1000 PEFA with the Commission on January 12, 2010. The revisions to the pre-Order 1000 PEFA memorialized the changes to the ColumbiaGrid planning process developed during the Attachment K compliance process. The Commission accepted the revised pre-Order 1000 PEFA on March 3, 2010.<sup>11</sup>

Prior to the issuance of Order No. 1000, the regional transmission planning process under the pre-Order 1000 PEFA included the following essential features—features that continue under the Third Restated PEFA:

- An annual System Assessment by ColumbiaGrid Staff of the TOPPs' Transmission Systems:

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<sup>8</sup> *Id.* at P 25.

<sup>9</sup> *See Preventing Undue Discrimination and Undue Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119 (2007), *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>10</sup> *United States Department of Energy – Bonneville Power Administration, et al.*, 124 FERC ¶ 61,054 (2008); *United States Department of Energy – Bonneville Power Administration, et al.*, 128 FERC ¶ 61,065 (2009); *order granting clarification and dismissing reh'g*, 132 FERC ¶ 61,142 (2010); *Avista Corp.*, Letter Order (unpublished), Docket No. OA08-25-003 (Mar. 3, 2009); *Puget Sound Energy, Inc.*, Letter Order (unpublished), Docket No. OA08-26-003 (Feb. 25, 2010); *Avista Corp.*, Letter Order (unpublished), Docket No. OA08-25-004 (Sep. 10, 2010); *United States Department of Energy – Bonneville Power Administration, et al.*, 130 FERC ¶ 61,260 (2010).

<sup>11</sup> *ColumbiaGrid*, Letter Order (unpublished), Docket No. ER10-585-000 (Mar. 3, 2010).

- to determine the ability of each TOPP to serve, consistent with defined Planning Criteria, their transmission service and other long-term transmission obligations during the Planning Horizon;
  - to develop conceptual transmission solutions to address Needs identified in System Assessments.
- Development by Study Teams of plans of service to address Needs identified in System Assessments. Study Team formations are publicly announced and any Interested Person may fully participate as a member of the Study Team.
  - Completion of a Biennial Transmission Plan approved by the ColumbiaGrid Board.
  - A primary objective has been to facilitate analysis of Proposed Projects as if a single utility owned all relevant facilities in order to enhance efficiency.<sup>12</sup>

Under the pre-Order No. 1000 PEFA and continuing under the Third Restated PEFA, ColumbiaGrid has been responsible for developing a regional transmission plan covering a 10-year planning horizon on a biennial basis, with additional plan updates as needed.<sup>13</sup> ColumbiaGrid's regional plans have been developed through open public planning processes that have identified (i) transmission needs (e.g., expected reliability problems affecting the Transmission Systems of TOPPs), and (ii) solutions to such transmission needs that affect more than one entity's Transmission System. ColumbiaGrid Staff has facilitated and coordinated planning studies among TOPPs and other regional stakeholders. Study Teams have been formed to collaboratively develop solutions to identified transmission needs, and consider alternatives to transmission construction such as demand response and distributed generation. As part of their evaluation of potential solutions, the study teams (and ColumbiaGrid, as appropriate) have considered solution evaluation factors. The pre-Order 1000 PEFA, like the Third Restated PEFA, was designed to facilitate the development of preferred plans of service. Under the pre-Order 1000 PEFA, where agreement could not be reached on funding responsibility, in certain instances ColumbiaGrid could recommend a cost allocation.

The ColumbiaGrid planning process has demonstrated its ability to develop projects from a regional perspective, in an Order No. 890 planning region that is outside of an RTO or ISO and that includes traditional public utilities, a merchant transmission developer, a federal power marketing administration, and other non-public utilities. To date, ColumbiaGrid has produced four biennial regional plans and updates. As a result of this process, ColumbiaGrid study teams comprised of multiple transmission owners and operators and interested persons have developed preferred plans of service to address identified transmission needs.

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<sup>12</sup> Third Restated PEFA § 3(i).

<sup>13</sup> The 10-year Planning Horizon is based on the prevailing standard industry planning horizon.

As discussed below, the Third Restated PEFA retains and builds on the pre-Order 1000 PEFA planning process. Specifically, the Third Restated PEFA includes amendments to implement the requirements of Order No. 1000, including clarification that transmission needs driven by Public Policy Requirements are considered in the ColumbiaGrid planning process and the addition of an Order 1000 Cost Allocation Methodology.

## **II. REVISIONS TO IMPLEMENT ORDER NO. 1000 REFORMS**

### **A. Overview**

The process to revise the pre-Order 1000 PEFA to facilitate Order No. 1000 compliance began in late 2011. Stakeholder meetings to discuss Order No. 1000 and compliance within ColumbiaGrid were publicly announced and held by ColumbiaGrid Staff. Further, a proposed draft of the PEFA containing revisions to address Order No. 1000 was circulated to stakeholders in advance for comments. A number of stakeholders provided input and also provided written comments that were considered in developing the Third Restated PEFA.<sup>14</sup>

In developing revisions to comply with Order No. 1000, a goal of ColumbiaGrid and the Planning Parties was to preserve the fundamental elements of the existing processes under the pre-Order 1000 PEFA that had already been agreed to by a diverse group of jurisdictional and non-jurisdictional entities in the region and that have proved to be effective in facilitating the successful development of plans of service. In this regard, the Commission has recognized that “each transmission planning region has unique characteristics” and Order No. 1000 therefore “accords transmission planning regions significant flexibility to tailor regional transmission planning and cost allocation processes to accommodate these regional differences.”<sup>15</sup>

The Third Restated PEFA has a number of revisions to facilitate compliance with the requirements of Order No. 1000. New provisions have been included regarding factors to be considered in selecting projects that qualify for cost allocation under the new, intraregional Order 1000 Cost Allocation Methodology (which has also been added to the pre-Order 1000 PEFA), and factors to be considered in qualifying Order 1000 Sponsors (whether incumbent or non-incumbent) of such proposed projects. The Third Restated PEFA makes available as an option an “Order 1000 Cost Allocation” for any qualifying project and sponsor requesting such an allocation. Although prior to Order No. 1000 the ColumbiaGrid planning process encompassed transmission needs driven by public policy requirements, the Third Restated PEFA includes revisions to more clearly reflect that transmission needs driven by Public Policy Requirements will be considered in the ColumbiaGrid planning process.<sup>16</sup>

The revisions in the Third Restated PEFA to facilitate Order No. 1000 compliance are further described in the sections below. Section B addresses Order No. 1000’s requirements

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<sup>14</sup> Comments submitted by stakeholders are available on the ColumbiaGrid website:  
<http://www.columbiagrid.org/1000-overview.cfm>.

<sup>15</sup> Order No. 1000 at P 61.

<sup>16</sup> Order No. 1000 at PP 203, 205 (requiring consideration of transmission needs driven by Public Policy Requirements).

regarding the regional transmission planning process. Section C addresses Order No. 1000’s requirements for intraregional cost allocation. Section D addresses other revisions in the Third Restated PEFA.

**B. Revisions to the Regional Transmission Planning Process**

To achieve compliance with the requirements of Order No. 1000 related to the regional transmission planning process, only targeted revisions to the pre-Order 1000 PEFA were necessary. The major Order No. 1000 regional requirements, and compliance with such requirements through participation in ColumbiaGrid and the Third Restated PEFA, are summarized in the following table and described more fully in the following sections.

| Major Order 1000 Requirements  | Third Restated PEFA  |
|--|--|
| Requires participation in a regional transmission planning process and a clear enrollment process by which entities choose to become part of transmission planning region.   | Jurisdictional public utility transmission providers and non-jurisdictional and federal entities participate in existing regional transmission planning process under PEFA; any entity that owns or operates or proposes to own or operate transmission facilities in the Pacific Northwest may become a PEFA Party. <sup>17</sup> |
| Requires regional transmission planning process to provide opportunity to consider transmission needs driven by Public Policy Requirements.  | Clarified that transmission needs driven by Public Policy Requirements are considered in regional transmission planning process. <sup>18</sup>   |
| Requires removal of rights of first refusal and ability for non-incumbents to participate.   | Rights of first refusal not applicable. Any entity may participate in ColumbiaGrid regional transmission planning.   |
| Requires development of qualification criteria for sponsors and projects (including determination that Project is a more cost effective and efficient solution) for projects selected for purposes of cost allocation (“Order 1000 Projects”). | Third Restated PEFA provides Order 1000 Sponsor and Order 1000 Project qualification criteria, including determination that Order 1000 Project is a more cost effective and efficient solution. <sup>19</sup>  |
| Requires transparent and not unduly discriminatory process for selection of a proposed transmission facility in the regional transmission plan for purposes of cost allocation.  | Third Restated PEFA describes a transparent and not unduly discriminatory process for selecting a proposed transmission facility for purposes of Order 1000 Cost Allocation. <sup>20</sup>   |
| Requires method or set of methods for allocating the costs of new transmission facilities selected for cost allocation purposes.   | Third Restated PEFA includes Order 1000 Cost Allocation Methodology for allocating costs of Order 1000 Projects. <sup>21</sup>   |

<sup>17</sup> Third Restated PEFA § 1.59.  
<sup>18</sup> Third Restated PEFA § 1.29 (defining Need and Potential Need), Third Restated PEFA § 3 (defining Plan Methodology); Third Restated PEFA, Appendix A, §§ 3, 4 (describing process for selection and consideration of Needs, including Needs driven by Public Policy Requirements).  
<sup>19</sup> Third Restated PEFA, Appendix A, §§ 4.1, 10.1.  
<sup>20</sup> Third Restated PEFA, Appendix A, § 10.  
<sup>21</sup> Third Restated PEFA § 1.40; PEFA Appendix A § 10.3.

## **1. Participation in a Regional Transmission Planning Process that Produces a Regional Transmission Plan**

In Order No. 1000, the Commission required that public utility transmission providers participate in a regional transmission planning process consistent with Order No. 890 that produces a regional transmission plan.<sup>22</sup> Under the provisions of the pre-Order 1000 PEFA, ColumbiaGrid produces a regional transmission plan biennially, with periodic updates between plans.<sup>23</sup> The Commission acknowledged in Order No. 1000 that “public utility transmission providers in some transmission planning regions already may have in place transmission planning processes or cost allocation mechanisms that satisfy some or all of the requirements of this Final Rule.”<sup>24</sup> The ColumbiaGrid regional planning process satisfied the requirements of Order No. 890,<sup>25</sup> and substantially satisfies the requirements of Order No. 1000.

Any entity that owns or operates or proposes to own or operate transmission facilities in the Pacific Northwest may sign the Third Restated PEFA, and thereby become a Planning Party.<sup>26</sup> ColumbiaGrid is to maintain a list of Planning Parties on its Website (<http://www.columbiagrid.org/>).<sup>27</sup> Planning Parties are the entities that, as signatories to the Third Restated PEFA, agree to participate in the ColumbiaGrid transmission planning process and agree that transmission facilities in the Pacific Northwest that they own or operate or propose to own or operate are included in the Order 1000 ColumbiaGrid Planning Region.<sup>28</sup>

Any Planning Party that owns or operates or proposes to own or operate transmission facilities in the Pacific Northwest is also referred to in the Third Restated PEFA as a “Transmission Owner or Operating Planning Party” or “TOPP”. The transmission facilities in the Pacific Northwest owned or operated or proposed to be owned or operated by a TOPP are referred to in the Third Restated PEFA as such TOPP’s “Transmission System.” As described in the Third Restated PEFA, each TOPP is a Planning Party and agrees to participate in the ColumbiaGrid transmission planning process under that agreement.

## **2. Transmission Needs Driven by Public Policy Requirements**

In Order No. 1000, the Commission required public utility transmission providers to amend their OATTs to describe procedures that provide for the consideration of transmission needs driven by Public Policy Requirements in the local and regional transmission planning

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<sup>22</sup> Order No. 1000 at P 146.

<sup>23</sup> Third Restated PEFA § 2.1 (“Each Planning Cycle, ColumbiaGrid shall develop and review a Draft Biennial Plan and shall adopt, by majority vote of the Board, a Biennial Plan.”).

<sup>24</sup> Order No. 1000 at P 13.

<sup>25</sup> The ColumbiaGrid regional planning process has generally been incorporated in the Attachment Ks of Avista, PSE, and BPA filed in response to Order No. 890, which have been accepted by the Commission. *See supra* note 10.

<sup>26</sup> *See* Third Restated PEFA §§ 1.59 (definition of “Qualified Person”) and 17.2 (additional Qualified Persons that execute the Third Restated PEFA become Planning Parties); *see also* Order 1000-A at P 275.

<sup>27</sup> Third Restated PEFA § 1.56; *see* Order No. 1000-A at P 275.

<sup>28</sup> Third Restated PEFA § 1.38.

processes.<sup>29</sup> In Order No. 1000-A, the Commission clarified that Order No. 1000 requires the consideration of transmission needs driven by Public Policy Requirements, not consideration of the Public Policy Requirements themselves.<sup>30</sup> Furthermore, the Commission clarified in Order No. 1000-A that the necessary consideration of transmission needs driven by Public Policy Requirements entails the following: (i) identification of potential transmission needs driven by Public Policy Requirements, including an opportunity for stakeholder input into such identification, (ii) a process to select, from among the identified Potential Needs, those for which transmission solutions will be considered, and, (iii) a process to evaluate potential solutions for those selected Potential Needs.<sup>31</sup> The Third Restated PEFA satisfies these requirements.<sup>32</sup>

The Third Restated PEFA clarifies that transmission needs driven by Public Policy Requirements will be considered in ColumbiaGrid's regional transmission planning process. Specifically, the Third Restated PEFA incorporates a definition for "Public Policy Requirements" that, consistent with Order No. 1000, defines "Public Policy Requirements" as "enacted statutes (i.e., passed by the legislature and signed by the executive) and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level."<sup>33</sup> The definition of "Need" in the pre-Order 1000 PEFA also has been revised to clarify that Needs considered in the planning process may include transmission needs driven by Public Policy Requirements.<sup>34</sup> All requests for Order 1000 Cost Allocation, including requests for Order 1000 Cost Allocation for Order 1000 Projects that satisfy Needs driven by Public Policy Requirements, will be posted on ColumbiaGrid's Website.<sup>35</sup> Staff's determinations regarding whether a Project qualifies as an Order 1000 Project will be communicated to all Planning Parties and participants in the Study Team for the Proposed Project for which Order 1000 Cost Allocation has been requested and posted on ColumbiaGrid's Website.<sup>36</sup>

### **3. Elimination of Federal Rights of First Refusal**

In Order No. 1000, the Commission directed public utility transmission providers "to eliminate provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission provider with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation."<sup>37</sup>

The pre-Order 1000 PEFA does not contain a right of first refusal. Indeed, any entity may participate in the ColumbiaGrid planning process and, upon becoming a Transmission Owner or Operator Planning Party, sponsor projects for consideration within the ColumbiaGrid

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<sup>29</sup> Order No. 1000 at P 203.

<sup>30</sup> Order No. 1000-A at P 204 and 318.

<sup>31</sup> Order No. 1000 at PP 203, 209, 205.

<sup>32</sup> *E.g.*, Third Restated PEFA, Appendix A at 3.1.1 and 4.1.

<sup>33</sup> Third Restated PEFA § 1.58.

<sup>34</sup> Third Restated PEFA § 1.29.

<sup>35</sup> Order No. 1000 at P 209; Order 1000-A at P 325; Third Restated PEFA, Appendix A, § 10.1.1.

<sup>36</sup> Order No. 1000 at P 209; Order 1000-A at P 325; Third Restated PEFA, Appendix A, § 10.1.2.

<sup>37</sup> Order No. 1000 at P 313.

planning process.<sup>38</sup> As a result, no further revisions to the pre-Order 1000 PEFA were necessary for compliance with this requirement of Order No. 1000. However, definitions of “Non-Incumbent Transmission Developer” and “Merchant Transmission Developer” were added to the Third Restated PEFA and the definition of “Transmission Owner or Operator Planning Party” was amended to clarify non-incumbents’ participation in the ColumbiaGrid planning process. Specifically, the definition of TOPP was expanded to include any Person that proposes to own or operate transmission facilities in the Pacific Northwest, which clarifies that Non-Incumbent and Merchant Transmission Developers may be TOPPs.

#### **4. System Assessment and Evaluation of Transmission and Non-Transmission Alternatives in the Regional Planning Process**

In Order No. 1000, the Commission required public utility transmission providers to evaluate, through the regional transmission planning process and in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.<sup>39</sup> The Commission also required public utility transmission providers in each transmission planning region to develop procedures by which the public utility transmission providers in the region identify and evaluate the set of potential solutions that may meet the region’s needs more efficiently or cost-effectively.<sup>40</sup>

##### **a. System Assessment and Development of Need Statements**

ColumbiaGrid, in coordination with the Planning Parties and Interested Persons, annually conducts a system assessment to identify Needs, including those driven by Public Policy Requirements. To the extent the system assessment identifies a Need pursuant to the factors and criteria identified in the Third Restated PEFA, ColumbiaGrid will develop a Need Statement,<sup>41</sup> identify conceptual transmission solutions,<sup>42</sup> and form Study Teams to develop a plan of service to address a Need(s).<sup>43</sup>

##### **b. Evaluation of Transmission Alternatives**

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<sup>38</sup> The PEFA includes a definition of “Order 1000 ColumbiaGrid Planning Region” that makes clear that only those Transmission Systems that Transmission Owner or Operator Planning Parties own or operate or propose to own or operate in the Regional Interconnected System and that are not enrolled in a neighboring transmission planning region, are part of the Order 1000 ColumbiaGrid Planning Region. Third Restated PEFA at § 1.38. Defining Order 1000 ColumbiaGrid Planning Region in this way is appropriate in order to identify those facilities that are eligible for intraregional Order 1000 Cost Allocation under the Third Restated PEFA. The Third Restated PEFA addresses the Order No. 1000 requirements regarding intraregional cost allocation. Work is ongoing on development of cost allocation for interregional projects.

<sup>39</sup> Order No. 1000 at P 148.

<sup>40</sup> Order No. 1000 at P 148.

<sup>41</sup> Third Restated PEFA, Appendix A, § 3.1.6.

<sup>42</sup> Third Restated PEFA, Appendix A, § 3.1.6.

<sup>43</sup> Third Restated PEFA, Appendix A, § 4.1.

The primary mechanism by which alternative transmission solutions will be considered is the Study Team process. Study Team participation is open not only to Planning Parties, but to all Interested Persons.<sup>44</sup> For example, Interested Persons may join any Study Team and introduce alternatives to proposed projects and participate in the development of projects to meet transmission needs. ColumbiaGrid is to participate in each Study Team and, as needed, manage and facilitate the Study Team process. In accordance with the Third Restated PEFA, in some instances should the Study Team be unable to reach agreement, ColumbiaGrid will make recommendations required to keep the planning process moving forward.<sup>45</sup>

The Study Team process is discussed throughout the Third Restated PEFA, but particularly in section 4.4 of the body, and section 4 of Appendix A, of the Third Restated PEFA. As described in section 4.1 of Appendix A of the Third Restated PEFA, Study Teams evaluate any Need(s) in a Needs Statement(s) and collaboratively and timely develop all required elements of a plan of service as may be required to address such Need(s). Section 4.1 of Appendix A of the Third Restated PEFA includes provisions that provide the foundation for consideration of alternatives that may be more efficient or cost-effective. Section 4.1 of Appendix A of the Third Restated PEFA provides that, in developing a plan of service, “a Study Team will evaluate any of the following proposed solutions to a Need(s): Proposed Projects, Non-Transmission Alternatives, and conceptual solutions that are: (i) reflected in the relevant Need Statement(s); or (ii) proposed by any Study Team participant to address such Need(s); *provided that* the information, including Project data, needed in order for the Study Team to evaluate such proposed solutions has been provided to ColumbiaGrid.” Thus, any Study Team member, which may include any Interested Person, may propose an alternative that may be more efficient or cost-effective.

In terms of how alternatives are evaluated, the applicable criteria for evaluating all proposed solutions to address Needs are specified in section 2.3 of Appendix A of the Third Restated PEFA:

- (i) in the case of a Proposed Project, sponsorship and degree of development of a proposal for such Project;
- (ii) feasibility;
- (iii) coordination with any affected Transmission System and any other Affected Persons;
- (iv) economics;
- (v) effectiveness of performance;
- (vi) satisfaction of Need(s), including the extent to which the proposed solution satisfies multiple Needs; and

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<sup>44</sup> Third Restated PEFA, Appendix A, § 4.

<sup>45</sup> E.g., Third Restated PEFA, Appendix A, §§ 4.3, 5.4, 6.4, 7.3, and 8.2.1.

- (vii) consistency with applicable state, regional, and federal planning requirements and regulations.

This section 2.3 also specifies that no single factor shall necessarily be determinative in evaluating proposed solutions to address Needs. In addition, the Study Team is required to assess “whether there is a solution that is a more cost-effective and efficient alternative, applying such factors, to address Need(s).” Further section 4.1 of Appendix A of the Third Restated PEFA provides that, “[t]aking such assessments into account, Study Teams shall attempt to reach agreement on all of the elements, as appropriate, of a plan of service to meet such Need(s).”

Order No. 1000 requires that the evaluation process “must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.”<sup>46</sup> The Third Restated PEFA accomplishes this objective by requiring an “Order 1000 Cost Allocation Report” that is prepared by ColumbiaGrid Staff and finalized by the ColumbiaGrid Board that includes “with respect to any Proposed Project for which Order 1000 Cost Allocation was requested in accordance with section 10 of Appendix A [of the Third Restated PEFA] but that was not selected as an Order 1000 Project, an explanation of why such Proposed Project was not selected as an Order 1000 Project.”<sup>47</sup>

### **c. Evaluation of Non-Transmission Alternatives**

Amendments to the pre-Order 1000 PEFA filed with the Commission in 2010 to facilitate compliance with Order No. 890 clarified that non-transmission alternatives could be proposed by participants in the ColumbiaGrid transmission planning process and also specified how non-transmission alternatives would be considered on a comparable basis in the planning process. On March 3, 2010, the Commission accepted the revisions to the pre-Order 1000 PEFA as being in compliance with the Order No. 890.<sup>48</sup>

In Order No. 1000, the Commission required that public utility transmission providers “must consider proposed non-transmission alternatives on a comparable basis when evaluating the merits of . . . alternative transmission solutions.”<sup>49</sup> For compliance with Order No. 1000, the Third Restated PEFA further expands provisions relating to the consideration of non-transmission alternatives under the pre-Order 1000 PEFA. Revised section 2.4 of Appendix A of the Third Restated PEFA provides that, “[i]n the evaluation of a Non-Transmission Alternative, if the Study Team determines that such alternative has a reasonable degree of development, eliminates or defers the Need(s) being studied by the Study Team, and is reasonable and adequate considering the factors described in section 2.3 above of this Appendix A, the Non-Transmission Alternative should be noted in the Plan.” If such an alternative is adopted by the Person on whose Electric System it would be located, “such Non-Transmission Alternative shall be included in the assumptions used in future system assessments, subject to subsequent updates

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<sup>46</sup> Order No. 1000 at P 328.

<sup>47</sup> Third Restated PEFA, Appendix A, § 1.41.

<sup>48</sup> *ColumbiaGrid*, Letter Order (unpublished), Docket No. ER10-585-000 (Mar. 3, 2010).

<sup>49</sup> Order No. 1000 at P 328.

on the status of such Non-Transmission Alternative.”<sup>50</sup> The criteria used in evaluating Non-Transmission Alternatives as potential solutions are the same criteria in section 2.3 of Appendix A of the Third Restated PEFA used to evaluate transmission alternatives.

### **C. Order 1000 Cost Allocation (Intraregional)**

#### **1. Qualification Criteria for Sponsors of Transmission Projects Proposed for Order 1000 Cost Allocation**

In Order No. 1000, the Commission required a demonstration that the regional transmission planning process includes appropriate qualification criteria to determine an entity’s eligibility to propose a transmission project for selection in a regional transmission plan for the purpose of cost allocation.<sup>51</sup> The Commission also emphasized that each transmission planning region would have “the flexibility to formulate qualification criteria that best fits its transmission planning processes and addresses the particular needs of the region. . .”, so long as “the criteria are fair and not unreasonably stringent when applied to either the incumbent transmission provider or nonincumbent transmission developers.”<sup>52</sup>

Section 10.1.2.2 of Appendix A of the Third Restated PEFA sets forth the qualifications for an Order 1000 Sponsor. An Order 1000 Sponsor must be a TOPP—that is, an Order 1000 Sponsor must be a signatory to the Third Restated PEFA and must own and operate or propose to own and operate transmission facilities in the Pacific Northwest.<sup>53</sup> In addition, ColumbiaGrid will review the qualifications of any Order 1000 Sponsor to determine whether the Order 1000 Sponsor is technically, financially, and otherwise capable of:

- Developing, licensing, and constructing the Proposed Project for which Order 1000 Cost Allocation has been requested pursuant to section 10 of Appendix A of the Third Revised PEFA in a timely and competent manner; and
- Owning, operating, and maintaining the proposed Order 1000 Project facilities consistent with Good Utility Practice and applicable reliability criteria for the life of such proposed Order 1000 Project.

Further, ColumbiaGrid will consider the following factors in determining an Order 1000 Sponsor’s eligibility:

- the current and expected capabilities of the Order 1000 Sponsor to finance, seek licenses, plan, design, develop, and construct the proposed Order 1000 Project on a timely basis consistent with the proposed schedule and to own, reliably operate, and maintain such Project for the life of such Project;
- the financial resources of the Order 1000 Sponsor;

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<sup>50</sup> Third Restated PEFA, Appendix A, § 2.3.

<sup>51</sup> *Id.* at P 323.

<sup>52</sup> *Id.* at P 324.

<sup>53</sup> Third Restated PEFA Appendix A, § 10.1.2.2; Third Restated PEFA § 1.72.

- demonstrated capability of the Order 1000 Sponsor to adhere to construction, maintenance, and operating practices consistent with Good Utility Practices with respect to facilities such as the proposed Order 1000 Project;
- demonstrated ability of the Order 1000 Sponsor to assume liability for major losses resulting from the failure of or damage to facilities that may be associated with the proposed Order 1000 Project; and
- demonstrated cost containment capability and other advantages or disadvantages the Order 1000 Sponsor may have in developing and constructing the proposed Order 1000 Project.<sup>54</sup>

## **2. Requirements for Receipt of Order 1000 Cost Allocation**

Pursuant to Section 10.1 of Appendix A of the Third Restated PEFA, a Proposed Project may qualify for and receive an Order 1000 Cost Allocation if (i) such Proposed Project's Order 1000 Sponsor(s) makes a timely request in accordance with section 10.1.1 of Appendix A of the Third Restated PEFA that such Proposed Project be selected as an Order 1000 Project, (ii) such Proposed Project's Order 1000 Sponsor(s) meets the requirements set out in section 10.1.2.1 of Appendix A of the Third Restated PEFA, and (iii) such Proposed Project is selected as an Order 1000 Project in accordance with section 10.1.2 of Appendix A of the Third Restated PEFA.

Order No. 1000 requires identification of: (a) the information that must be submitted by a prospective transmission developer in support of a transmission project it proposes in the regional transmission planning process; and (b) the date by which such information must be submitted to be considered in a given transmission planning cycle.<sup>55</sup>

To support a transmission project it proposes in the ColumbiaGrid planning process, a sponsor must participate in the Study Team process, which develops all requirements of a plan of service. In general, under the Third Restated PEFA the TOPP proposing a Proposed Project in the ColumbiaGrid process assumes primary responsibility for leading and performing necessary analytical work in the Study Team. A sponsor must submit the project data and a project development schedule, and must ensure the projected costs of the project are provided. In addition, the sponsor must ensure that the Study Team has data to evaluate the project's feasibility, economics, effectiveness of performance, consistency with applicable state, regional, and federal planning requirements and regulations, as well as data regarding the Need(s) addressed by the project and impacts on any affected transmission systems and other Affected Persons.<sup>56</sup> The sponsor must submit such data by such times as will permit the Study Team to evaluate the proposed project to timely meet identified Need(s).<sup>57</sup> If the proposed Project is selected by the Study Team for inclusion in the plan of service, the sponsor has up until 60 days after the issuance of the final Study Team report including the plan of service to request an Order

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<sup>54</sup> Third Restated PEFA Appendix A, § 10.1.2.2.

<sup>55</sup> Order No. 1000 at P 325.

<sup>56</sup> Third Restated PEFA Appendix A, § 4.

<sup>57</sup> Third Restated PEFA, Appendix A, §§ 4.1(ii), 10.1.2.1(ii)b.

1000 Cost Allocation (with respect to a Proposed Single System Project, such Project's Order 1000 Sponsor must request Order 1000 Cost Allocation at the time such sponsor requests a Study Team for Project development). An Order 1000 Sponsor is to have 30 days to submit additional data regarding its qualifications to be an Order 1000 Sponsor upon receipt from ColumbiaGrid of written notice of deficiencies, in accordance with section 10.1.2.1(ii) of Appendix A of the Third Restated PEFA.<sup>58</sup>

### **3. Procedures for Reevaluation of Order 1000 Projects in the Event of Delays**

Order No. 1000 requires specification of a process by which the regional transmission plan will be reevaluated to determine if delays in the development of a transmission facility selected in a transmission plan for cost allocation requires evaluation of alternative solutions.<sup>59</sup> In Order No. 1000-A, the Commission clarified that, if a transmission facility is selected in the regional transmission plan for purposes of cost allocation, the transmission developer of that transmission facility must submit a development schedule that indicates the required steps, such as the granting of state approvals, necessary to develop and construct the transmission facility such that it meets the transmission needs of the region.<sup>60</sup> If the sponsor fails to timely achieve the critical steps in the schedule, the transmission facility may be removed from the plan and alternatives may be pursued.<sup>61</sup>

Pursuant to the Third Restated PEFA, an Order 1000 Sponsor is required to submit a "Project development schedule, indicating required steps, such as granting of state, federal, and local approvals necessary to develop and construct the Proposed Project so as to timely meet the Need(s)".<sup>62</sup> The status of Order 1000 Projects will be assessed during each system assessment, which is conducted annually.<sup>63</sup> "The system assessment will include an assessment of whether such Project continues to be expected to meet the underlying Need(s) in a timely manner."<sup>64</sup> "If such Project does not so continue to be expected to meet such Need(s) in a timely manner, ColumbiaGrid may remove such Project from its Biennial Plan. Upon such removal, such Project shall not be an Order 1000 Project." Finally, section 3.1.3 recognizes that "such removal may result in alternative solutions in the transmission planning process to meet any applicable Need(s)."<sup>65</sup>

### **4. Order 1000 Benefits and Order 1000 Cost Allocation<sup>66</sup>**

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<sup>58</sup> Third Restated PEFA, Appendix A, §§ 10.1.1, 10.1.2.1(ii)b.

<sup>59</sup> Order No. 1000 at P 329.

<sup>60</sup> Order No. 1000-A at P 442.

<sup>61</sup> Order No. 1000-A at P 442.

<sup>62</sup> Third Restated PEFA, Appendix A, § 10.1.2.1(ii)(b).

<sup>63</sup> Third Restated PEFA, Appendix A, § 3.1.3.

<sup>64</sup> Third Restated PEFA, Appendix A, § 3.1.3.

<sup>65</sup> Third Restated PEFA, Appendix A, § 3.1.3.

<sup>66</sup> The Third Restated PEFA addresses the Order No. 1000 requirements regarding intraregional cost allocation. Work is ongoing on development of cost allocation for interregional projects.

In Order No. 1000, the Commission required each region to adopt an intraregional cost allocation methodology that satisfies six cost allocation principles: (1) costs must be allocated in a way that is roughly commensurate with estimated benefits; (2) there must be no involuntary allocation of costs to non-beneficiaries; (3) a benefit to cost threshold ratio, if used, cannot exceed 1.25; (4) costs must be allocated solely within the transmission planning region unless those outside the region voluntarily assume costs; (5) there must be a transparent method for determining benefits and identifying beneficiaries; and (6) there may be different methods for different types of transmission facilities.<sup>67</sup> In outlining these principles, the Commission emphasized that flexibility would be provided to regions developing compliant methodologies “so that public utility transmission providers and their stakeholders can develop cost allocation methods that best meet their region’s needs.”<sup>68</sup>

In Order Nos. 1000 and 1000-A, the Commission declined to provide further specificity in defining “benefits” and “beneficiaries” for Cost Allocation Principle 1. However, the key concern driving the Commission’s cost allocation reforms is related to “free riders.” In Order No. 1000-A, the Commission clarified the free rider problem that it is attempting to address:

Given the nature of transmission operations, it is possible that an entity that uses part of the transmission grid will obtain benefits from the transmission facility enlargements and improvements in another part of that grid . . . . That is the essence of the “free rider” problem the Commission is seeking to address through its cost allocation reforms.<sup>69</sup>

The revisions in the Third Restated PEFA regarding Order 1000 Cost Allocation, including the definition of Order 1000 Benefits and the Order 1000 Cost Allocation itself, are designed to address the free rider problem identified by the Commission.

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<sup>67</sup> Order No. 1000 at PP 622-693.

<sup>68</sup> *E.g.*, Order No. 1000 at P 624; Order No. 1000-A at P 678.

<sup>69</sup> Order No. 1000-A at P 562.

The following table summarizes the Third Restated PEFA’s response to the Order No. 1000 intraregional cost allocation principles.

|   | <b>Order 1000 Cost Allocation Principle</b>  | <b>Third Restated PEFA</b>  |
|---|--|---|
| 1 | Costs of transmission facilities must be allocated to those within transmission planning region that benefit from such facilities in manner that is at least roughly commensurate with estimated benefits. | Benefits of Order 1000 Projects defined and costs of Order 1000 Projects allocated to Order 1000 Beneficiaries in manner roughly commensurate with their Order 1000 Benefits. <sup>70</sup> |
| 2 | Those that receive no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated any of the costs of those facilities.                    | Costs of Order 1000 Projects allocated only to Order 1000 Beneficiaries—no allocation to any entity that does not receive a benefit. <sup>71</sup>  |
| 3 | Allows, but does not require, use of benefit to cost threshold so long as any such threshold does not exceed a ratio of benefits to costs that exceeds 1.25, unless justified.                             | No benefit to cost threshold.   |
| 4 | Allocation to be solely within transmission planning region unless those outside voluntarily assume costs.   | Allocation of costs to Order 1000 Beneficiaries only in the ColumbiaGrid region unless others voluntarily assume costs. <sup>72</sup>   |
| 5 | Transparent method for determining benefits and identifying beneficiaries.   | Clear and transparent methodology to define Order 1000 Benefits and Order 1000 Beneficiaries. <sup>73</sup>   |
| 6 | Allows, but does not require, different cost allocation methodologies for different types of facilities.   | Application of same Order 1000 Cost Allocation Methodology to all Order 1000 Projects. <sup>74</sup>  |

After extensive negotiation among ColumbiaGrid and the Planning Parties, with input from stakeholders in the region, the pre-Order 1000 PEFA has been reformed in a number of respects to satisfy Order No. 1000 intraregional cost allocation requirements. Consistent with the requirements of Order No. 1000, the Third Restated PEFA revises the pre-Order 1000 PEFA

<sup>70</sup> Third Restated PEFA § 1.37; Third Restated PEFA, Appendix A, §§ 10.3.2, 10.3.3.

<sup>71</sup> Third Restated PEFA, Appendix A, § 10.3.2.

<sup>72</sup> Third Restated PEFA § 1.43; Third Restated PEFA, Appendix A, §§ 10.3.2, 10.3.3.

<sup>73</sup> Third Restated PEFA, Appendix A, §§ 10.3.2, 10.3.3.

<sup>74</sup> Third Restated PEFA, Appendix A, §§ 10.3.2, 10.3.3.

to include a cost allocation methodology (referred to as “Order 1000 Cost Allocation Methodology”<sup>75</sup>) that may be used to allocate costs of qualifying projects (referred to as “Order 1000 Projects”<sup>76</sup>) sponsored by qualifying project sponsors (referred to as “Order 1000 Sponsors”<sup>77</sup>) in a manner roughly commensurate with identified benefits (referred to as “Order 1000 Benefits”<sup>78</sup>) among beneficiaries of such Order 1000 Benefits (referred to as “Order 1000 Beneficiaries”<sup>79</sup>) in the ColumbiaGrid region (referred to as “Order 1000 ColumbiaGrid Planning Region”<sup>80</sup>).<sup>81</sup>

As discussed above, the Order 1000 Cost Allocation Methodology meets the six intraregional cost allocation principles of Order No. 1000 and addresses the “free rider” problem identified by the Commission, while also reflecting a method that meets the ColumbiaGrid region’s needs. At the same time, as discussed below, the pre-Order 1000 PEFA cost allocation methodology (referred to as “Non-Order 1000 Cost Allocation”<sup>82</sup>), remains intact as an available methodology in the Third Restated PEFA for certain transmission projects that either do not qualify for Order 1000 Cost Allocation or for which Order 1000 Cost Allocation has not been timely requested. Accordingly, there are two tracks for cost allocation under the Third Restated PEFA.

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<sup>75</sup> Third Restated PEFA § 1.41; Third Restated PEFA, Appendix A, § 10.3.

<sup>76</sup> Third Restated PEFA § 1.43.

<sup>77</sup> Third Restated PEFA § 1.44; Third Restated PEFA, Appendix A, §§ 10.2.1(ii), 10.1.2.2.

<sup>78</sup> Third Restated PEFA § 1.37.

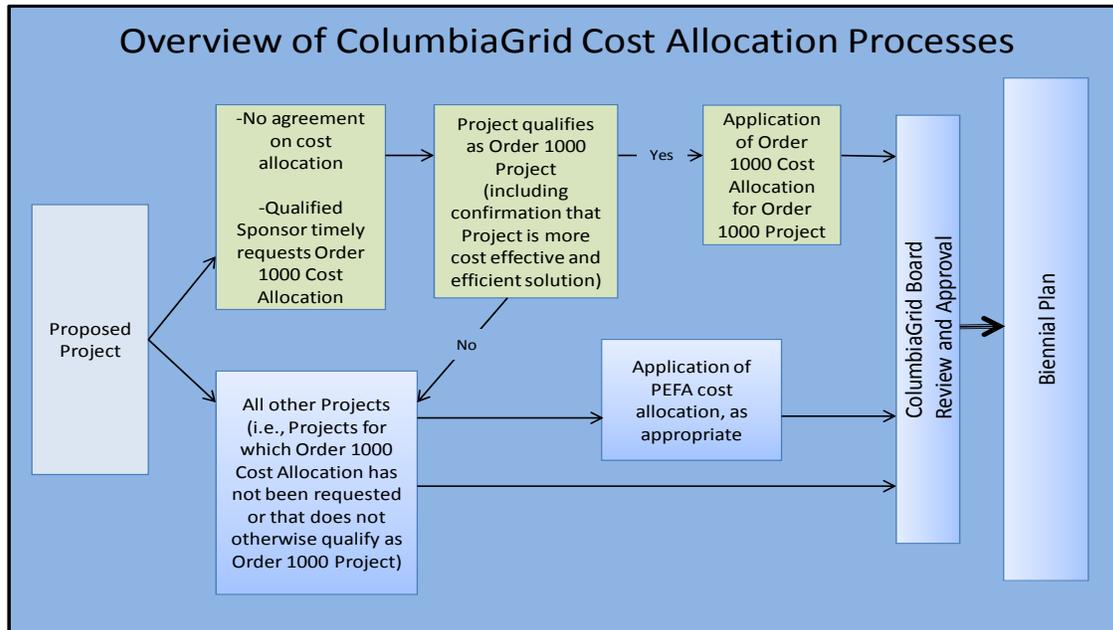
<sup>79</sup> Third Restated PEFA § 1.36.

<sup>80</sup> Third Restated PEFA § 1.38.

<sup>81</sup> Order No. 1000 requires, in the event of a failure to reach agreement regarding cost allocation, that the efforts to reach a consensus on intraregional cost allocation be documented. Order No. 1000 at P 607. ColumbiaGrid and the Planning Parties have reached agreement on the intraregional Order 1000 Cost Allocation Methodology, as reflected in the Third Restated PEFA.

<sup>82</sup> Third Restated PEFA § 1.39.

The two “tracks” for cost allocation—Order 1000 Cost Allocation and the Non-Order 1000 Cost Allocation—are illustrated in the chart below (green boxes indicate Order 1000 Cost Allocation process and blue indicates Non-Order 1000 Cost Allocation).



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**a. Description of the Order 1000 Cost Allocation Methodology**

The Order 1000 Cost Allocation process is designed to be predictable and transparent, with a number of opportunities for the Study Team, Planning Parties, and Interested Persons to provide input to ColumbiaGrid. To be eligible for Order 1000 Cost Allocation in ColumbiaGrid, a project must have been planned and selected as an Order 1000 Project as part of the ColumbiaGrid planning process. This ensures that the Study Team, Planning Parties, and Interested Persons will have an ample opportunity to receive considerable information regarding a project before it is subject to Order 1000 Cost Allocation.

In applying the Order 1000 Cost Allocation Methodology, the ColumbiaGrid Staff first estimates the costs of the Order 1000 Project based on the information provided by the Order 1000 Sponsor, Study Team and ColumbiaGrid Staff. ColumbiaGrid may seek the input of others, including third-party experts.<sup>83</sup> The ColumbiaGrid Staff then identifies any TOPPs that

<sup>83</sup> Third Restated PEFA, Appendix A, § 10.3.1.

are Order 1000 Beneficiaries and quantifies the Order 1000 Benefits they would receive as a direct result of the Order 1000 Project. As appropriate, ColumbiaGrid will use the following tools to quantify such benefits: (i) power flow and stability studies to project avoided costs due to elimination or deferral of planned transmission facilities, (ii) power flow and stability studies to project transfer capability changes, and (iii) production cost studies to project the estimated usage of any such changes in transfer capability.<sup>84</sup> ColumbiaGrid may consider existing TOPP transmission or interconnection service queue requests when projecting the estimated usage of transfer capability changed.<sup>85</sup>

Order 1000 Benefits for a TOPP that is not an Order 1000 Sponsor generally include (i) avoided costs due to an elimination<sup>86</sup> or deferral<sup>87</sup> of transmission facilities that such TOPP would otherwise incur to meet its Need(s); and, to the extent not reflected in such avoided costs, (ii) changes in revenues based on cost based rates due to increases in transmission capacity on such TOPP's system as a direct result of an Order 1000 Project and that are reliably projected to be usable and marketable.<sup>88</sup> The Order 1000 Benefits of Order 1000 Sponsors are equal to the projected Order 1000 Project capital costs.<sup>89</sup> If an Order 1000 Project provides no Order 1000 Benefits to non-sponsors, the Order 1000 Sponsors will, as would be expected, be allocated the entire cost of the Order 1000 Project. On the other hand, if an Order 1000 Project provides Order 1000 Benefits to non-sponsors, those non-sponsors will be allocated a portion of the cost of the Order 1000 Project based on their Order 1000 Benefits. This allocation is intended to address the free rider problem identified by the Commission in Order 1000-A.<sup>90</sup>

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<sup>84</sup> Third Restated PEFA § 10.3.2.1.

<sup>85</sup> Third Restated PEFA § 10.3.2.1.

<sup>86</sup> As described in section 1.37 of the Third Restated PEFA, the avoided costs of eliminated transmission facilities during the Planning Horizon will be the portion of the projected avoided depreciation expense of such eliminated facilities that falls within the Planning Horizon plus the projected incremental operation and maintenance costs of such eliminated facilities avoided during the Planning Horizon (such projected avoided depreciation expense shall be determined using straight-line depreciation of the projected capital costs of such eliminated facilities over their depreciable lives).

<sup>87</sup> Section 1.37 of the PEFA provides that the avoided costs of deferred transmission facilities will be the borrowing costs projected to be avoided during the Planning Horizon as a result of the deferral of the capital investment of such deferred facilities (rather than the capital costs themselves of such facilities) plus the incremental operations and maintenance costs of such facilities projected to be avoided during the Planning Horizon.

<sup>88</sup> An increase in capacity on a TOPP's system that results from any Order 1000 Project is deemed to be owned by the TOPP unless otherwise agreed to by the TOPP. Section 10.3.2.2 of Appendix A of Third Restated PEFA.

<sup>89</sup> Order 1000 Benefits for Order 1000 Sponsors are not based on projected Order 1000 Benefits in the same manner as non-sponsor Order 1000 Beneficiaries because Order 1000 Sponsors cannot properly be characterized as free riders of their own project.

<sup>90</sup> See Order No. 1000-A at P 562.

The Order 1000 Benefits of non-sponsors are evaluated over ColumbiaGrid's existing ten-year Planning Horizon.<sup>91</sup> The Order 1000 Benefits of the non-sponsors are evaluated over the Planning Horizon because such benefits depend on projections of avoided costs and marketable capacity. The ten-year Planning Horizon is consistent with industry practice and represents a reasonable period—in light of the uncertainty of future loads, resources, and transmission system development—over which to project avoided costs and changes in transmission revenue for purposes of Order 1000 Cost Allocation.

Subsequently, ColumbiaGrid Staff uses the Order 1000 Cost Allocation Methodology to determine the allocation of costs of the Order 1000 Project to the TOPPs that are identified as Order 1000 Beneficiaries. In general, under the Order 1000 Cost Allocation Methodology, projected Order 1000 Project costs are allocated to a non-sponsor Order 1000 Beneficiary based upon its relative projected Order 1000 Benefits, subject to a cap equal to the amount that such non-sponsor Order 1000 Beneficiary would otherwise incur to achieve the same benefits. For an Order 1000 Beneficiary that is not an Order 1000 Sponsor, ColumbiaGrid will allocate a share of the projected costs of the Order 1000 Project that is equal to the lesser of: (i) the Order 1000 Beneficiary's Order 1000 Benefits, or (ii) the product of the costs of the Order 1000 Project multiplied by a fraction, the numerator of which is equal to the Order 1000 Beneficiary's Order 1000 Benefits and the denominator of which is equal to the aggregate Order 1000 Benefits of all of the Order 1000 Beneficiaries of such project.<sup>92</sup> For Order 1000 Beneficiaries that are Order 1000 Sponsors of the Order 1000 Project, ColumbiaGrid will allocate a share of the costs of the Order 1000 Project equal to the costs of such Order 1000 Project minus the sum of the costs of

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<sup>91</sup> See Order No. 1000 at P 157 (explaining that public utility transmission providers would have flexibility with respect to certain planning matters, such as the duration of long-term planning horizons, to use requirements that work best for their region, and that the Commission would not impose through Order No. 1000 additional rules for such matters).

<sup>92</sup> Third Restated PEFA 10.3.3.1.

such Order 1000 Project allocated to any other Order 1000 Beneficiaries that are not Order 1000 Sponsors.<sup>93</sup> The Order 1000 Cost Allocation Methodology can be described algebraically for Order 1000 Sponsor Order 1000 Beneficiaries and non-Order 1000 Sponsor Order 1000 Beneficiaries as follows:

$$\begin{array}{l} \text{Costs of Order 1000} \\ \text{Project allocated to} \\ \text{each non-Order 1000} \\ \text{Sponsor Order 1000} \\ \text{Beneficiary} \end{array} = \begin{array}{l} \text{The lesser of:} \\ \\ (1) \text{ Such Order 1000 Beneficiary's Order 1000} \\ \text{Benefits, or} \\ \\ (2) \text{ the product of the projected costs of the} \\ \text{Order 1000 Project x (such Order 1000} \\ \text{Beneficiary's Order 1000 Benefits/((sum of the} \\ \text{Order 1000 Benefits of all non-Order 1000} \\ \text{Sponsor Order 1000 Beneficiaries of such} \\ \text{Project) + (the aggregate Order 1000 Benefits of} \\ \text{the Order 1000 Sponsor(s))} \end{array}$$

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$$\begin{array}{l} \text{The sum of the costs} \\ \text{of Order 1000 Project} \\ \text{allocated to Order} \\ \text{1000 Sponsor(s)} \end{array} = \begin{array}{l} \text{Total projected capital costs of Order 1000} \\ \text{Project – costs of Order 1000 Project allocated} \\ \text{to all Order 1000 Beneficiaries that are not} \\ \text{Order 1000 Sponsors} \end{array}$$

The ColumbiaGrid Staff will document the results of its application of the Order 1000 Cost Allocation Methodology in a draft Preliminary Order 1000 Cost Allocation Report. The ColumbiaGrid Staff will share its draft with the Order 1000 Beneficiaries and the Study Team that developed the Order 1000 Project, post its draft, and take written comments during a 30-day review period.<sup>94</sup> After evaluating comments, the Staff will prepare and submit to the Board in the draft Biennial Plan its Preliminary Order 1000 Cost Allocation Report.<sup>95</sup> To the extent ColumbiaGrid Staff did not accept proposed revisions in such report, it will document why it did not accept such proposed revisions.<sup>96</sup>

The Board will review the Preliminary Order 1000 Cost Allocation Report, including the selection of a Project as an Order 1000 Project, as part of its adoption of the Biennial Plan in an open, public process.<sup>97</sup> If the Board finds that the report is acceptable, the Board will approve and finalize the report as part of its adoption of the Biennial Plan.<sup>98</sup> Any report not approved by

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<sup>93</sup> Third Restated PEFA 10.3.3.2.

<sup>94</sup> Third Restated PEFA, Appendix A, § 10.4.

<sup>95</sup> Third Restated PEFA, Appendix A, § 10.4.

<sup>96</sup> Third Restated PEFA, Appendix A, § 10.4.

<sup>97</sup> Third Restated PEFA, Appendix A, § 10.5.

<sup>98</sup> Third Restated PEFA, Appendix A, § 10.4.

the Board may be remanded to the Staff for further consideration or, if supported by the record, be modified by the Board.<sup>99</sup>

**b. Retention of the Non-Order 1000 Cost Allocation Methodology**

In Order No. 1000, the Commission made clear that it “d[id] not intend to disturb regional practices with regard to other transmission facilities [(transmission facilities not selected for purposes of Order 1000 Cost Allocation)] that also may be in the regional transmission plan.”<sup>100</sup> At the same time, the Non-Order 1000 Cost Allocation, which was considered by the Commission as part of its review of the Avista, PSE, and BPA filings in response to Order No. 890, remains intact as an available methodology in the Third Restated PEFA for certain transmission projects that either do not qualify for Order 1000 Cost Allocation or for which Order 1000 Cost Allocation has not been timely requested or where a timely request has been withdrawn prior to the application of the Order 1000 Cost Allocation Methodology.<sup>101</sup> The applicability of the Non-Order 1000 Cost Allocation depends upon the characteristics of a proposed project and whether it qualifies as one of the types of projects within ColumbiaGrid, such as Capacity Increase Projects,<sup>102</sup> Existing Obligation Projects (“EOP”),<sup>103</sup> Requested Service Projects (“RSP”),<sup>104</sup> Expanded Scope Projects,<sup>105</sup> and Single System Projects.<sup>106</sup> When the Non-Order 1000 Cost Allocation methodology is applied, ColumbiaGrid will recommend a cost allocation based on the criteria in the Third Restated PEFA.<sup>107</sup>

**E. Other Revisions in the Third Restated PEFA**

**1. Clarification of the Scope of the ColumbiaGrid Order 1000 Cost Allocation**

In Order No. 1000-A, the Commission clarified that the cost allocation requirements of Order No. 1000 were separate from cost recovery issues. The Commission explained in particular that “cost recovery is a separate issue [from cost allocation], and we will not specify how costs can be recovered for transmission projects that are selected in the regional transmission plan for purposes of cost allocation.”<sup>108</sup> The Commission also “decline[d] to

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<sup>99</sup> Third Restated PEFA, Appendix A, § 10.4.

<sup>100</sup> Order No. 1000 at P 64.

<sup>101</sup> *United States Department of Energy – Bonneville Power Administration, et al.*, 124 FERC ¶ 61,054 (2008); *United States Department of Energy – Bonneville Power Administration, et al.*, 128 FERC ¶ 61,065 (2009); *order granting clarification and dismissing reh’g*, 132 FERC ¶ 61,142 (2010). Order 1000 Cost Allocation is available for all Projects and sponsors that satisfy the applicable criteria.

<sup>102</sup> Third Restated PEFA § 1.7.

<sup>103</sup> Third Restated PEFA § 1.17.

<sup>104</sup> Third Restated PEFA § 1.64.

<sup>105</sup> Third Restated PEFA § 1.18.

<sup>106</sup> Third Restated PEFA § 1.65.

<sup>107</sup> *See, e.g.*, Third Restated PEFA, Appendix A, §§5.4, 6.4, 8.4, and 9.4

<sup>108</sup> Order No. 1000-A at P 616;

impose obligations to build or mandatory processes to obtain commitments to construct transmission facilities in the regional transmission plan”.<sup>109</sup>

In developing the revisions in the Third Restated PEFA, ColumbiaGrid and the Planning Parties agreed to clarify that the regional transmission planning and cost allocation revisions are only intended to meet the requirements of Order No. 1000, and not to impose obligations to construct or address cost recovery issues.<sup>110</sup> Thus, section 2.1 of the Third Restated PEFA has, at the request of non-jurisdictional Planning Parties, been revised to provide such clarifications. Consistent with Order No. 1000, section 2.1 of the Third Restated PEFA generally provides that nothing in the Third Restated PEFA nor any cost allocation thereunder (i) obligates any Planning Party to construct any transmission facility, regardless of whether such transmission facility is included in any Plan; or (ii) requires any Planning Party or other Person to pay or entitles any Person to recover any cost of any transmission facility from any Planning Party.

## **2. Participation of States, Provincial Agencies, and Tribes**

In Order Nos. 1000 and 1000-A, the Commission declined to specify a formal method for how state utility regulators would participate in the regional transmission planning process, leaving the issue for resolution in the development of planning processes that comply with Order No. 1000.<sup>111</sup> The Commission explained that it “support[ed] states’ efforts to take an active role in the regional transmission planning process and encourage[d] proposals that seek to establish a formal role for state commissions in the regional transmission planning process”.<sup>112</sup>

Revisions in the Third Restated PEFA are designed to foster participation by state and provincial agencies. Section 4.5.1 of the Third Restated PEFA provides that all “Relevant State and Provincial Agencies may participate as non-decisional participants in any Study Team involved in the ColumbiaGrid transmission planning process as set forth in Appendix A.” ColumbiaGrid is to “provide the opportunity for direct consultation between its Board or Staff and any Relevant State and Provincial Agency whenever requested by the Agency.”<sup>113</sup> The Third Restated PEFA contemplates that collaborative consultations with Relevant State and Provincial Agencies may take place on at least an annual basis.<sup>114</sup> In addition, section 4.3 of Appendix A of the Third Restated PEFA contains conforming revisions to clarify that any Relevant State and Provincial Agency may participate in a Study Team.<sup>115</sup> Finally, the Third

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<sup>109</sup> Order No. 1000 at PP 66, 159; *see also* Order No. 1000-A at P 285 (stating that the Commission will not require the filing of regional transmission plans and further stating that the Commission’s “concern is with ensuring that there is an open and transparent regional transmission planning process. We are not dictating substantive outcomes of that process.”).

<sup>110</sup> Order No. 1000 at P 159.

<sup>111</sup> Order No. 1000-A at P 290.

<sup>112</sup> Order No. 1000-A at P 290.

<sup>113</sup> Third Restated PEFA § 4.5.1.

<sup>114</sup> Third Restated PEFA § 4.5.1.

<sup>115</sup> Third Restated PEFA, Appendix A, § 4.3.

Restated PEFA contains expanded provisions regarding protocols to coordinate with Tribes in the Northwest.<sup>116</sup>

### **3. Administrative Matters**

While the primary focus of the Third Restated PEFA is addressing Order No. 1000, the Third Restated PEFA contains several minor revisions to address administrative matters. Revisions to reflect Enbridge, Inc., as a signatory and its contact information are included in the Third Restated PEFA.

### **III. CONDITIONAL ASPECT OF FILING AND REQUESTED EFFECTIVE DATE**

The enclosed Third Restated PEFA is being filed under section 205 of the Federal Power Act, contemporaneously with the Order No. 1000 compliance filings of Avista and PSE. To the extent necessary, Avista requests waiver of the Commission's prior notice requirement and any other requirements to permit an effective date, if the conditions in section 17.1 of the Third Amended PEFA discussed below are satisfied, for the Third Restated PEFA of October 11, 2012, to coincide with the effective dates of Avista's Order No. 1000 Compliance Filing.

Avista's request for an effective date for the Third Restated PEFA of October 11, 2012, is conditioned upon the Commission accepting the Third Restated PEFA and Order 1000 compliance filings filed by both Avista and PSE (i) unconditionally, or (ii) without change or condition inconsistent with the Third Restated PEFA that is not accepted in writing by each Party to the PEFA. Such conditions are necessary due to the contractually-agreed upon effective date for the Third Restated PEFA. Section 17.1 of the Third Restated PEFA provides in part:

The Third Amendment and Restatement shall not become effective unless and until (i) the Third Amendment and Restatement is filed with the Commission by Avista Corporation and Puget Sound Energy, Inc. and such filings are accepted by the Commission (a) unconditionally or (b) with no change or condition that is inconsistent with the Third Amendment and Restatement and that is not accepted in writing by each Party; and (ii) the intraregional compliance filings in response to Order 1000 of Avista Corporation and of Puget Sound Energy, Inc. are accepted by the Commission (a) unconditionally or (b) with no change or condition that is inconsistent with the Third Amendment and Restatement and that is not accepted in writing by each Party. Unless and until the Third Amendment and Restatement becomes effective pursuant to the preceding sentence, the Agreement shall be as set forth absent the Third Amendment and Restatement.

In order to have effective planning in the region, it is imperative that regional planning include non-jurisdictional transmission providers. In fact, the majority of the Planning Parties are non-jurisdictional utilities. Because the non-jurisdictional Planning Parties are not obligated

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<sup>116</sup> Third Restated PEFA § 4.5.2.

to amend the pre-Order 1000 PEFA, and the non-jurisdictional Planning Parties would not have amended the pre-Order 1000 PEFA but for the need of jurisdictional Planning Parties to comply with Order 1000, section 17.1 of the pre-Order 1000 PEFA was revised to address the event the Commission orders revisions to the Third Restated PEFA.

Until such time as the Third Restated PEFA and the Avista and PSE Attachment Ks implementing the Third Restated PEFA become effective as filed, consistent with section 17.1 of the Third Amended PEFA, it is appropriate that the pre-Order 1000 PEFA remain in effect. If the Commission does not so accept the Third Restated PEFA and such Attachment Ks, it will be necessary to negotiate further revisions to the pre-Order 1000 PEFA and attempt to reach agreement among the Parties, including the non-jurisdictional Planning Parties.

#### **IV. CONTACTS**

Avista respectfully requests that the following persons be included on the official service list in these proceedings and that all communications concerning this filing be addressed to them:

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1411 E. Mission Ave., MSC-16  
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Email: michael.andrea@avistacorp.com

Avista respectfully requests that the individuals identified above with an asterisk be placed on the Commission's official service list in this proceeding and be designated for service pursuant to Rule 2010, 18 C.F.R. § 385.2010.

#### **V. CONTENTS OF FILING**

Avista respectfully tenders for filing an electronic copy of the following documents:

1. This transmittal letter; and
2. ColumbiaGrid Planning and Expansion Functional Agreement, Third Amendment and Restatement, Avista Corporation Rate Schedule FERC No. CG1, Version 1.0.0.

#### **VI. SERVICE**

Avista will post a copy of this filing on its OASIS.

#### **VII. WAIVER**

The Honorable Kimberly D. Bose  
Secretary  
October 11, 2012  
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To the extent necessary, Avista requests waiver of any applicable requirements of 18 C.F.R. Part 35 in order to allow the Third Restated PEFA, Avista Corporation Rate Schedule FERC No. CG1, to become effective in the manner described herein.

## **VIII. CONCLUSION**

For the reasons set forth above, Avista respectfully requests that the Commission accept the enclosed Third Restated PEFA, Avista Corporation Rate Schedule FERC No. CG1, to become effective October 11, 2012, with such acceptance conditioned as discussed above.

Respectfully submitted,

**AVISTA CORPORATION**

/s/ Michael G. Andrea  
Michael G. Andrea  
Senior Counsel

Enclosure

**COLUMBIAGRID**

**PLANNING AND EXPANSION  
FUNCTIONAL AGREEMENT**

**THIRD AMENDMENT AND RESTATEMENT**

**October 1, 2012**

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**COLUMBIAGRID**

**PLANNING AND EXPANSION FUNCTIONAL AGREEMENT**

**THIRD AMENDMENT AND RESTATEMENT**

**RECITALS**

A. ColumbiaGrid, a Washington state nonprofit corporation, is intended to promote, in the public interest, coordinated and reliable planning, expansion, and operation of the interconnected transmission systems in the Pacific Northwest, taking into consideration environmental concerns, regional interests, public policy, efficiency, and cost-effectiveness.

B. This functional agreement (“Agreement”) is intended to support and facilitate multi-system planning through a coordinated, open, transparent, and non-discriminatory process and is intended to facilitate transmission expansion based upon such planning. This public transmission planning process is open to all interested persons.

C. The ColumbiaGrid transmission planning process will evaluate transmission needs, including those driven by public policy requirements.

D. ColumbiaGrid will prepare biennial transmission plans based on the principle of single-utility planning that, over a planning horizon, are intended to identify and resolve projected transmission needs on the transmission systems of parties to this Agreement. ColumbiaGrid will facilitate an open and transparent transmission planning process designed to promote consensus among affected entities to address such projected transmission needs that affect more than one transmission system. If such consensus is not reached, ColumbiaGrid staff may propose transmission projects to resolve such projected transmission needs, including cost and benefit allocation, and submit such transmission projects to the ColumbiaGrid Board of Directors for approval.

E. ColumbiaGrid will assume the obligations of Northwest Area Coordinator for submissions of planning data to the Western Electric Coordinating Council on behalf of the parties to this Agreement, and may also play an informational role in other regional transmission planning committees and work groups.

F. The ColumbiaGrid transmission project planning process will evaluate non-transmission alternatives that are proposed in the transmission planning process and that defer or eliminate a need for transmission projects.

G. The ColumbiaGrid transmission planning process and biennial plans will also address transmission projects needed to serve new transmission and interconnection requests to

the transmission system owners or operators that are parties to this Agreement and will address expansions sponsored by parties to this Agreement. The biennial plans will also list transmission projects developed by individual parties to the Agreement to address transmission needs affecting only their individual transmission systems.

H. Any entity that owns or operates, or proposes to own or operate, transmission or generation facilities in the Pacific Northwest (incumbent or non-incumbent) or with a planning responsibility for transmission facilities in the Pacific Northwest may become a party to this Agreement.

I. The ColumbiaGrid transmission planning process includes roles for Tribes and relevant State and Provincial governmental agencies with roles in energy regulation, transmission, and planning.

## **AGREEMENT**

This PLANNING AND EXPANSION FUNCTIONAL AGREEMENT is entered into as of January 17, 2007, as amended on January 16, 2008, and as further amended and restated as of October 1, 2012, by and among Avista Corporation; the Bonneville Power Administration (“Bonneville”); Public Utility District No. 1 of Chelan County, Washington; Public Utility District No. 1 of Cowlitz County, Washington; Public Utility District No. 1 of Douglas County, Washington; Enbridge, Inc.; Public Utility District No. 2 of Grant County, Washington; Puget Sound Energy, Inc.; the City of Seattle, a municipal corporation of the State of Washington, acting by and through its City Light Department; Public Utility District No. 1 of Snohomish County, Washington; the City of Tacoma, Department of Public Utilities, Light Division (dba Tacoma Power); and ColumbiaGrid, a Washington state nonprofit corporation.

### **1. Definitions**

**1.1** “Affected Persons” with respect to a Project or Proposed Project means those Planning Parties and Persons that would bear Material Adverse Impacts from such Project or Proposed Project or are otherwise materially affected thereby.

**1.2** “Agreement Limiting Liability Among Western Interconnected Systems” or “WIS Agreement” means at any time the Agreement Limiting Liability Among Western Interconnected Systems as it may have then been amended.

**1.3** “Allocated Share” with respect to each Payor means at any time the percentage for such Payor as determined by ColumbiaGrid pursuant to the formula set forth in section 8.4, as such percentage may have then been adjusted pursuant to sections 8.5, 8.6, or 8.7; *provided that* the Allocated Share of any New Payor of any Invoice submitted to such New Payor pursuant to section 8.8.3 shall be equal to the \$10,000 amount of such Invoice.

**1.4** “Biennial Plan” means each biennial transmission plan adopted by the Board pursuant to section 2. A “Draft Biennial Plan” refers to a draft of a Biennial Plan presented by Staff to the Board for adoption pursuant to section 2 but not yet adopted by the Board.

**1.5** “Board of Directors” or “Board” means the Board of Directors of ColumbiaGrid.

**1.6** “Bylaws” means the then current bylaws of ColumbiaGrid.

**1.7** “Capacity Increase Project” means a voluntary modification of the Regional Interconnected Systems:

(i) to the extent that it is for the purpose of providing new or increased transmission capacity (*e.g.*, increased rating or improved availability) on the Regional Interconnected Systems;

(ii) that is voluntarily undertaken by one or more Transmission Owner or Operator Planning Party(ies), whether or not undertaken in conjunction with one or more other Persons; and

(iii) to the extent that it is not an Existing Obligation Project, Requested Service Project, or Single System Project.

A “Proposed Capacity Increase Project” means a proposal for a Capacity Increase Project at such time as it is being discussed in the transmission planning process, whether that be for purposes of identifying unmitigated Material Adverse Impacts of such Project or for purposes of developing the Project under section 8 of Appendix A; a “Recommended Capacity Increase Project” means a recommendation, developed by the agreement of Affected Persons pursuant to section 8 of Appendix A, for a Capacity Increase Project that is included as such in a Draft Biennial Plan or Draft Plan Update; a “Staff-Recommended Capacity Increase Project” means a recommendation, made by Staff pursuant to section 8 of Appendix A following the inability of Affected Persons to reach agreement in a timely manner on a Recommended Capacity Increase Project that is included as such in a Draft Biennial Plan or Draft Plan Update.

**1.8** “Claims Committee” means a committee established pursuant to section 13.4 of this Agreement upon the receipt of a claim or prior to such time.

**1.9** “Commission” means the Federal Energy Regulatory Commission or any successor entity.

**1.10** “Confidential Information” shall mean: all information, regardless of the manner in which it is furnished, marked as “Confidential Information” at the time of its furnishing; *provided that* Confidential Information shall not include information: (i) in the public domain or generally available or known to the public; (ii) disclosed to a recipient by a Third Person who had a legal right to do so; (iii) independently developed by the receiving Party or known to such Party prior to its disclosure under this Agreement; (iv) normally disclosed by entities in the Western Interconnection without limitation; (v) disclosed in aggregate form; or (vi) required to

be disclosed without a protective order or confidentiality agreement by subpoena, law, or other directive of a court, administrative agency, or arbitration panel.

**1.11** “CPI Index/GNP Deflator” means the Consumer Price Index (“CPI Index”) for Portland, Oregon, published monthly by the U.S. Department of Labor, Bureau of Labor Statistics, or, if the U.S. Department of Labor discontinues the publication of the CPI Index, or alters the same in some other material manner, then a substitute index or substitute procedure as selected by ColumbiaGrid that reasonably reflects and monitors changes in consumer prices similar to the altered or discontinued index.

**1.12** “Critical Energy Infrastructure Information” or “CEII” means information as defined in 18 C.F.R. § 388.113(c), as may be amended from time to time, about existing and proposed systems or assets, whether physical or virtual, relating to the production, generation, transportation, transmission, or distribution of energy that could be useful to a person in planning an attack on such systems or assets, the incapacity or destruction of which would negatively affect security, economic security, public health, or safety.

**1.13** “Designated Person” with respect to a form of Facilities Agreement means each of the Persons designated as such pursuant to section 6.1 by ColumbiaGrid in such form.

**1.14** “Effective Date” means April 4, 2007. The amendments to this Agreement specified in this Third Amendment and Restatement shall become effective only as set forth in section 17.1.

**1.15** “Electric System” has the meaning given for the words “electric system” in the WIS Agreement and means (i) electric distribution facilities or (ii) generation facilities or (iii) transmission facilities, or any combination of the three, and includes transmission lines, distribution lines, substations, switching stations, generating plants, and all associated equipment for generating, transmitting, distributing, or controlling flow of power. The Electric System of a Person includes the facilities of another entity operated or controlled by such Person. Electric System includes any devices or equipment (a) by which information is originated on an electric system or by the Person operating such system, (b) by which such information is transmitted, and (c) by which such information is received either for information or for operation of a system, whether by the originating system or by another system.

**1.16** “EOP Need” means any projected inability of a Transmission Owner or Operator Planning Party (anticipated to occur during the Planning Horizon) to serve, consistent with the Planning Criteria:

- (i) its network load or native load customer obligations, if any, as those terms are defined in such Transmission Owner or Operator Planning Party’s Open Access Transmission Tariff; or
- (ii) other existing long-term firm transmission obligations.

**1.17** “Existing Obligation Project” or “EOP” means any modification to be made to the Regional Interconnected Systems

(i) to the extent that it is for the purpose of meeting an EOP Need on a Transmission Owner or Operator Planning Party’s Transmission System;

(ii) to the extent that it is not a Capacity Increase Project, Requested Service Project, or Single System Project; and

(iii) that is approved by the Board and included as an Existing Obligation Project in a Plan.

A “Proposed Existing Obligation Project” or “Proposed EOP” means a proposal for an Existing Obligation Project at such time as it is being proposed in the transmission planning process; a “Recommended Existing Obligation Project” or “Recommended EOP” means a recommendation, developed by the agreement of Affected Persons pursuant to section 5 of Appendix A, for an Existing Obligation Project that is included as such in a Draft Biennial Plan or Draft Plan Update; a “Staff-Recommended Existing Obligation Project” or “Staff-Recommended EOP” means a recommendation, made by Staff pursuant to section 5.4 of Appendix A, for a Near-Term Existing Obligation Project that is included as such in a Draft Biennial Plan or Draft Plan Update.

**1.18** “Expanded Scope Project” means any Project if and to the extent that it is expanded pursuant to section 9 of Appendix A. A “Proposed Expanded Scope Project” means a proposal for an Expanded Scope Project at such time as it is being proposed in the transmission planning process.

**1.19** “Facilities Agreement” means a future agreement tendered by ColumbiaGrid to Designated Persons that may be separately entered into for purposes of effectuating an Existing Obligation Project pursuant to section 6.

**1.20** “Facilities Petition” means, with respect to an Existing Obligation Project, a petition by a Planning Party or any other Person to the Commission seeking relief in respect of a refusal or failure, by any Designated Person(s) that is named as a party in the form of Facilities Agreement for such Existing Obligation Project and is tendered such form pursuant to section 6.2, to enter into such agreement or to build or pay for the facilities identified in such Facilities Agreement in accordance with the terms thereof.

**1.21** “Facilities Petition Intervention” means, with respect to a Facilities Petition, an intervention by ColumbiaGrid in the Commission proceeding in which such Facilities Petition has been filed; *provided that* any Planning Party may intervene in a proceeding with respect to a Facilities Petition.

**1.22** “Interested Person” means any Person (including, but not limited to, any Relevant State or Provincial Agency, Tribe, Non-Incumbent Transmission Developer or Merchant Transmission Developer) who has expressed an interest in the business of ColumbiaGrid and has requested notice of its public meetings. Such Interested Persons will be identified on the Interested Persons List compiled by ColumbiaGrid in accordance with Section 4.2 of the ColumbiaGrid Bylaws.

**1.23** “Invoice” means an invoice submitted by ColumbiaGrid to all Payors (or to a New Payor) pursuant to section 8.8 for services rendered and corporate overhead under section 8.2.

**1.24** “Material Adverse Impacts” with respect to a Project or Proposed Project means a reduction of transmission capacity on a transmission system (or other adverse impact on such transmission system that is generally considered in transmission planning in the Western Interconnection) due to such Project that is material, that would result from a Project, and that is unacceptable to the Person that owns or operates such transmission system. For purposes of this Agreement, Material Adverse Impacts of a Project or Proposed Project are considered mitigated if there would not be any Material Adverse Impacts due to such Project.

**1.25** “Maximum Payor Obligation” for each Payor means the maximum total of Payment Amounts (specifically excluding any interest such Payor is obligated to pay under section 8.8.6.3 due to such Payor’s failure to pay its Allocated Share of a Payment Amount when due) such Payor is obligated to pay under section 8.3 of this Agreement.

**1.26** “Maximum Total Payment Obligation” or “MTPO” means the maximum total of Payment Amounts (specifically excluding any interest any Payor is obligated to pay under section 8.8.6.3 due to such Payor’s failure to pay its Allocated Share of a Payment Amount when due), which maximum total, for each Payment Cycle, is the sum to be provided to ColumbiaGrid in the aggregate by the Payors. The Maximum Total Payment Obligation equals:

- (i) an amount equal to \$4,200,000 for a Payment Cycle, as such amount may be adjusted by the CPI/GNP Deflator pursuant to section 8.1.2; or
- (ii) such other amount for a Payment Cycle as may be required pursuant to section 8.1.3, as such amount may be subsequently adjusted by the CPI/GNP Deflator pursuant to section 8.1.2;

*provided that* in the event the first Payment Cycle is less than two fiscal years to allow for the alignment of the Payment Cycle and Planning Cycle and to allow Payment Cycles after the first Payment Cycle to commence at the beginning of a ColumbiaGrid fiscal year, the Maximum Total Payment Obligation for the first Payment Cycle shall be prorated to reflect the actual length of the first Payment Cycle.

**1.27** “Merchant Transmission Developer” means any Person that owns or operates, or proposes to own or operate, transmission facilities in the Order 1000 ColumbiaGrid Planning

Region and intends to recover its costs through negotiated rates and is therefore not eligible to request Order 1000 Cost Allocation for such facilities.

**1.28** “Near-Term Existing Obligation Project” or “Near-Term EOP” means, at any time, an Existing Obligation Project that must be commenced prior to the end of the then next Planning Cycle in order to have sufficient lead time for implementation to meet the EOP Need giving rise to such Existing Obligation Project.

**1.29** “Need” means any of the following Needs as identified in a System Assessment Report pursuant to section 3 of Appendix A: EOP Need, Need for a Requested Service Project, Need for a Capacity Increase Project, and Need for a Single System Project, including any such Needs that are driven by Public Policy Requirements. “Potential Need” is an item that is proposed or considered for inclusion in the system assessment for possible identification in the System Assessment Report as a Need.

**1.30** “Need Statement” means, with respect to a Need, a statement developed by Staff pursuant to section 3 of Appendix A and included for informational purposes in a Plan. A “Draft Need Statement” means a proposal for a Need Statement presented by Staff to the Board for review and comment.

**1.31** “New Payor” means a Qualified Person that enters into this Agreement, and thereby becomes a Planning Party, subsequent to the Effective Date by executing a counterpart of this Agreement and delivering it to each Party; *provided that* a consortium of similarly situated Planning Parties, none of which operates a control area, may elect at the time they enter into this Agreement to be designated as a single Payor and shall thereby become jointly and severally liable for the Payment Cycle fixed payment amount (of \$50,000) pursuant to section 8.4 and the New Payor fee (of \$10,000) pursuant to section 8.8.3.

**1.32** “Non-Incumbent Transmission Developer” means any Person that proposes to own or operate transmission facilities in the Order 1000 ColumbiaGrid Planning Region, which Person does not own or operate existing transmission facilities in the Order 1000 ColumbiaGrid Planning Region.

**1.33** “Non-Transmission Alternative” means an alternative that does not involve the construction of transmission facilities and that ColumbiaGrid has determined would result in the elimination or deferral of a Need by modifying the loads or resources reflected in the system assessments. Examples of such alternatives that may constitute Non-Transmission Alternatives may include demand-side load reduction programs, peak-shaving projects, and distributed generation. The following examples are specifically excluded from Non-Transmission Alternatives: remedial action schemes, shunt capacitors, and reconductoring.

**1.34** “Open Access Transmission Tariff” or “OATT” means, for each Transmission Owner or Operator Planning Party, such Transmission Owner or Operator Planning Party’s open access transmission tariff and, if such Transmission Owner or Operator Planning Party does not have such a tariff, the Commission’s pro forma open access transmission tariff.

**1.35** “Order 1000” means the Commission’s Order No. 1000 (*Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 136 FERC ¶ 61,051 (2011), *order on rehearing and clarification*, 139 FERC ¶ 61,132 (2012)) as it may be amended, supplemented, or superseded from time to time.

**1.36** “Order 1000 Beneficiary” means a Transmission Owner or Operator Planning Party that is identified in an Order 1000 Cost Allocation Report as a Transmission Owner or Operator Planning Party that would receive Order 1000 Benefits as a direct result of an Order 1000 Project.

**1.37** “Order 1000 Benefits” means, as more fully described in section 10.3.2 of Appendix A:

(i) with respect to an Order 1000 Project and a Transmission Owner or Operator Planning Party that is not an Order 1000 Sponsor of such Project, the Order 1000 Benefits of such Transmission Owner or Operator Planning Party shall be equal to the sum of:

a. the projected costs that such Transmission Owner or Operator Planning Party is projected to avoid over the Planning Horizon due to elimination or deferral, as a direct result of such Order 1000 Project, of planned additions of transmission facilities in the Order 1000 ColumbiaGrid Planning Region, plus;

b. if and to the extent not reflected in item (i)a. above of this section, the value that such Transmission Owner or Operator Planning Party is projected to realize on its Transmission System over the Planning Horizon, as a direct result of such Order 1000 Project, where such value is equal to the lesser of:

1. the projected costs (excluding any projected costs included in item (i)a. above of this section) that such Transmission Owner or Operator Planning Party would, but for such Order 1000 Project, have otherwise incurred over the Planning Horizon to achieve an increase in capacity on its Transmission System equivalent to that resulting from such Order 1000 Project; or

2. the projected changes in revenues based on cost-based transmission rates over the Planning Horizon to such Transmission Owner or Operator Planning Party directly resulting from such Order 1000 Project or such Project’s elimination or deferral of planned transmission facilities, which projected changes in revenues shall be based on projected changes of usage of such Transmission Owner or Operator Planning Party’s Transmission System that are projected, using a robust economic analysis (including, as appropriate, production cost, power flow, and stability analyses and evaluation of transmission queues) and are repeatable over a wide range of reasonable assumptions, to result over the

Planning Horizon from the projected changes in capacity on such Transmission Owner or Operator Planning Party's Transmission System resulting from such Order 1000 Project or such Project's elimination or deferral of planned transmission facilities; and

(ii) with respect to an Order 1000 Project and any Order 1000 Sponsor(s) of such Project, the aggregate Order 1000 Benefits of such Order 1000 Sponsor(s) shall be equal to the projected capital costs of such Project.

**1.38** “Order 1000 ColumbiaGrid Planning Region” means the Transmission Systems that Transmission Owner or Operator Planning Parties own or operate or propose to own or operate in the Regional Interconnected Systems. The transmission facilities, existing or proposed, of any Person that is enrolled in a neighboring transmission planning region (as such term is used in Order 1000) of the Order 1000 ColumbiaGrid Planning Region shall not be part of the Order 1000 ColumbiaGrid Planning Region, and such facilities shall not be part of or comprise an intraregional project (as such term is used in Order 1000) of the Order 1000 ColumbiaGrid Planning Region for purposes of Order 1000 Cost Allocation.

**1.39** “Order 1000 Cost Allocation” means an allocation, using the Order 1000 Cost Allocation Methodology, pursuant to section 10.3.3 of Appendix A, of costs of an Order 1000 Project among one or more Transmission Owner or Operator Planning Parties. A cost allocation with respect to an interregional project (as such term is used in Order 1000) is specifically excluded from the meaning of Order 1000 Cost Allocation. “Non-Order 1000 Cost Allocation” means a cost allocation pursuant to provisions of this Agreement other than section 10.3 of Appendix A (such as sections 5.4, 6.4, 8.4, or 9.4 of Appendix A). Any Non-Order 1000 Cost Allocation does not constitute a cost allocation for purposes of Order 1000. The term “any cost allocation” includes any Order 1000 Cost Allocation or any Non-Order 1000 Cost Allocation.

**1.40** “Order 1000 Cost Allocation Methodology” means the cost allocation methodology set out in section 10.3 of Appendix A that is to be applied by ColumbiaGrid in making an Order 1000 Cost Allocation.

**1.41** “Order 1000 Cost Allocation Report” means the report prepared by Staff and approved and finalized by the Board in accordance with section 10 of Appendix A that includes: (i) with respect to each Order 1000 Project selected for inclusion in a Biennial Plan, the results of and documentation relating to ColumbiaGrid's application of the Order 1000 Cost Allocation Methodology to such Order 1000 Project, including (a) the identified Order 1000 Benefits and an explanation of such Order 1000 Benefits, and (b) the identified Order 1000 Beneficiaries of such Order 1000 Project, and, (ii) with respect to any Proposed Project for which Order 1000 Cost Allocation was requested in accordance with section 10 of Appendix A but that was not selected as an Order 1000 Project, an explanation of why such Proposed Project was not selected as an Order 1000 Project.

**1.42** “Order 1000 Preliminary Cost Allocation Report” means, with respect to an Order 1000 Project, the Staff’s results of and documentation in accordance with section 10 of Appendix A relating to the Staff’s application of the Order 1000 Cost Allocation Methodology to such Order 1000 Project, including the comments of the relevant Study Team’s participants.

**1.43** “Order 1000 Project” means any Project in the Order 1000 ColumbiaGrid Planning Region, for which Order 1000 Cost Allocation has been requested and that has been selected as an Order 1000 Project, all in accordance with section 10 of Appendix A; *provided that*, if and to the extent any transmission facilities of such Project are not located in the Order 1000 ColumbiaGrid Planning Region, such Project for purposes of section 10 of Appendix A and any other provisions of this Agreement relating to selection of a Project as an Order 1000 Project or relating to Order 1000 Cost Allocation shall be deemed to not include such transmission facilities not located in the Order 1000 ColumbiaGrid Planning Region. For the avoidance of doubt, Order 1000 Project specifically excludes (i) any facilities if and to the extent they are not located in the Order 1000 ColumbiaGrid Planning Region or are not owned or operated or proposed to be owned or operated by a Transmission Owner or Operator Planning Party, and (ii) any Project, notwithstanding the fact that the Project otherwise satisfies the requirements to be an Order 1000 Project, for which the Transmission Owner or Operator Planning Party(ies) that requested Order 1000 Cost Allocation has subsequently withdrawn such request in accordance with section 10 of Appendix A.

**1.44** “Order 1000 Sponsor” means, with respect to any Project for which Order 1000 Cost Allocation has been requested in accordance with section 10 of Appendix A, any Transmission Owner or Operator Planning Party that proposes to own or operate transmission facilities of such Project. Order 1000 Sponsor specifically excludes a Merchant Transmission Developer with respect to a Project in the Order 1000 ColumbiaGrid Planning Region.

**1.45** “Pacific Northwest” means the (i) sub region within the Western Interconnection comprised of Alberta, British Columbia, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming and (ii) any portions of the area defined in 16 U.S.C. § 839a(14) that are not otherwise included in (i).

**1.46** “Party” means a signatory to this Agreement.

**1.47** “Payment Amount” means the total amount of payment to be provided to ColumbiaGrid by the Payors (or by a New Payor(s)) in the aggregate pursuant to section 8.3 in response to an Invoice.

**1.48** “Payment Cycle” means each period of two consecutive ColumbiaGrid fiscal years for which the budget for provision of services under this Agreement is to be prepared; *provided that* ColumbiaGrid shall endeavor to align its Planning Cycle with its Payment Cycle; *provided further that* the first Payment Cycle may be for a period less than two such fiscal years to allow for alignment of the Payment Cycle and Planning Cycle and to allow each Payment Cycle after the first Payment Cycle to commence at the beginning of a ColumbiaGrid fiscal year. For purposes of this Agreement, a fiscal year shall be a twelve-month period.

**1.49** “Payor” means each Planning Party; *provided that* a consortium of similarly situated Planning Parties, none of which operates a control area, may elect at the time they enter into this Agreement to be designated as a single Payor and shall thereby become jointly and severally liable for the Payment Cycle fixed payment amount (of \$50,000) pursuant to section 8.4 and the New Payor fee (of \$10,000) pursuant to section 8.8.3; *provided further that* each such Planning Party shall otherwise be a separate Planning Party under this Agreement.

**1.50** “Person” means an individual, corporation, cooperative corporation, municipal corporation, quasi-municipal corporation, joint operating entity, limited liability company, mutual association, partnership, limited partnership, limited liability partnership, association, joint stock company, trust, unincorporated organization, government entity or political subdivision thereof (including a federal power marketing administration), or organization recognized as a legal entity by law in the United States or Canada.

**1.51** “Plan” means at any time the then current Biennial Plan, as then revised by any Plan Updates. A “Draft Plan” refers to a Draft Biennial Plan or a Draft Plan Update.

**1.52** “Plan Update” means an update to the then current Plan adopted by the Board pursuant to section 2.4. A “Draft Plan Update” means a plan update presented by Staff to the Board for adoption but not yet adopted by the Board.

**1.53** “Planning Criteria” means the then current planning standards that ColumbiaGrid shall apply, as provided in section 2.1 of Appendix A, in any system assessment, System Assessment Report, or Need Statement.

**1.54** “Planning Cycle” means a period of approximately 24 months during which a Draft Biennial Plan is to be prepared and presented to the Board for adoption and during which a Biennial Plan is to be subsequently adopted by the Board.

**1.55** “Planning Horizon” means, with respect to any Biennial Plan (or Plan Update), the period for which the system assessment for such Biennial Plan (or Plan Update) is made, which period shall be the longer of (i) ten years or (ii) the planning period required by the Commission in its pro forma OATT, as it may be amended from time to time.

**1.56** “Planning Party” means each Party other than ColumbiaGrid. ColumbiaGrid shall maintain a list of the Planning Parties on its Website.

**1.57** “Project” means any of the following included in a Plan, under development in the transmission planning processes under this Agreement, or under consideration for inclusion in a Plan, as the context requires: (i) Capacity Increase Project, (ii) Existing Obligation Project, (iii) Requested Service Project, or (iv) Single System Project. A Project may be classified as one or more of the foregoing types of Projects. A Project that is classified as more than one of the foregoing types is sometimes referred to in this Agreement as a “Project with Multiple Classifications”. An “Expanded Scope Project” is a Project the scope of which is expanded in accordance with section 9 of Appendix A and may be a combination of one or more Existing

Obligation Projects, Requested Service Projects, Capacity Increase Projects, and Single System Projects. A “Proposed Project” means a proposal for a Project at such time as it is being discussed in the transmission planning process.

**1.58** “Public Policy Requirements” means enacted statutes (i.e., passed by the legislature and signed by the executive) and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level.

**1.59** “Qualified Person” means (i) any Person (including any Transmission Owner or Operator Planning Party, any Non-Incumbent Transmission Developer, or Merchant Transmission Developer) that owns or operates, or proposes to own or operate, an Electric System in the Pacific Northwest or (ii) any Person that has an obligation under state, provincial, or federal law to engage in transmission planning or expansion activities in the Pacific Northwest.

**1.60** “Regional Interconnected Systems” or “RIS” means the interconnected transmission systems in the Pacific Northwest.

**1.61** “Relevant State or Provincial Agency” means any State or Provincial agency with authority over energy regulation, transmission, or planning that has expressed an interest in the ColumbiaGrid transmission planning process and has requested to be included on the Interested Persons list. For example, these may include the Washington Utilities and Transportation Commission, Idaho Public Utilities Commission, Oregon Public Utility Commission, Washington Department of Commerce (specifically the Energy Office within that department), Washington Energy Facility Site Evaluation Council, and the appointees to the Northwest Power and Conservation Council. If requested by a governor in the Pacific Northwest, Relevant State and Provincial Agency may also include a representative from such governor’s office. For the purposes of this Agreement, the term also includes any successor to these agencies.

**1.62** “Remaining Maximum Total Payment Obligation” means, at any time during the Term, the amount of Maximum Total Payment Obligation for which Invoices have not been issued. Upon the addition of a New Payor, the Remaining Maximum Total Payment Obligation shall equal the Maximum Total Payment Obligation minus the sum of (i) the aggregate of all Invoices as of the date the New Payor executes and delivers this Agreement to each Party plus (ii) the Payment Amount requested by the Initial Invoice to such New Payor pursuant to section 8.8.3.

**1.63** “Requested Service Assessment” means, with respect to a request to a Transmission Owner or Operator Planning Party for study related to a transmission service or interconnection, an assessment of the effect of such request on such Transmission Owner or Operator Planning Party’s Transmission System and on other transmission systems.

**1.64** “Requested Service Project” means any modification of the Regional Interconnected Systems

- (i) to the extent that it is for the purpose of providing service pursuant to a transmission service or interconnection request made to a Transmission Owner or Operator Planning Party;
- (ii) to the extent that it is not an Existing Obligation Project, Capacity Increase Project, or Single System Project; and
- (iii) that involves more than one Transmission System.

A “Proposed Requested Service Project” means a proposal for a Requested Service Project at such time as it is being proposed in the transmission planning process under this Agreement; a “Recommended Requested Service Project” means a recommendation for a Requested Service Project that is developed by the agreement of Affected Persons and that is included in a Plan; a “Staff-Recommended Requested Service Project” means a recommendation by the Staff for a Requested Service Project following the inability of Affected Persons to reach agreement in a timely manner on a Recommended Requested Service Project.

**1.65** “Single System Project” means any modification of a single Transmission System of a Transmission Owner or Operator Planning Party that

- (i) is for the purpose of meeting a Need or other purpose of such Transmission Owner or Operator Planning Party that impacts only such single Transmission System;
- (ii) does not result in Material Adverse Impacts on any transmission system;
- (iii) to the extent that it is not an Existing Obligation Project, Capacity Increase Project, or Requested Service Project; and
- (iv) is included as a Single System Project in a Plan.

With respect to a Transmission Owner or Operator Planning Party's Single System Project for which such Transmission Owner or Operator Planning Party as sponsor of such Project has requested an Order 1000 Cost Allocation in accordance with section 10 of Appendix A: a “Proposed Single System Project” means a proposal for a Single System Project at such time as it is being proposed in the transmission planning process under this Agreement; a “Recommended Single System Project” means a recommendation for a Single System Project that is developed by the agreement of Affected Persons and that is included in a Plan; and a “Staff-Recommended Single System Project” means a recommendation by the Staff for a Single System Project following the inability of Affected Persons to reach agreement in a timely manner on a Recommended Single System Project.

**1.66** “Staff” means the ColumbiaGrid staff, officers, or consultants hired or retained by ColumbiaGrid to perform the Staff’s responsibilities under this Agreement. The activities of

Staff under this Agreement will be performed under the supervision and guidance of the ColumbiaGrid Board.

**1.67** “Study Team” with respect to a Proposed Project being defined means a team that is comprised of ColumbiaGrid and the following that choose to participate in such team: (i) any Planning Parties, (ii) any Affected Persons identified with respect to such Project, and (iii) any Interested Persons; *provided that* participation in a Requested Service Project Study Team may be limited due to tariffs or applicable law.

**1.68** “Supporting Planning Parties” for an Existing Obligation Project means all Planning Parties that have not opted pursuant to section 6.3 to institute, or that do not intervene on their own behalf in, a Commission proceeding on a Facilities Petition with respect to such Existing Obligation Project.

**1.69** “System Assessment Report” means each system assessment report developed by Staff pursuant to section 3 in Appendix A.

**1.70** “Third Amendment and Restatement” means this Agreement as amended by the Third Amended and Restatement if and after such time as such amendments become effective in accordance with section 17.1.

**1.71** “Third Person” means any Person other than a Party.

**1.72** “Transmission Owner or Operator Planning Party” or “TOPP” means a Party that is, or proposes to be, an owner or operator of transmission facilities in the Pacific Northwest. For purposes of this Agreement, an “owner” includes, but is not limited to, a Party that has a leasehold interest in or other beneficial use of the subject facilities, where, for financing purposes, legal title is held by another entity.

**1.73** “Transmission System” means with respect to a Transmission Owner or Operator Planning Party the transmission facilities in the Pacific Northwest owned or operated or proposed to be owned or operated by such Transmission Owner or Operator Planning Party.

**1.74** “Uncontrollable Force” means any act or event that delays or prevents a Party from timely performing obligations under this Agreement, including an act of God, strike, lock-out, labor dispute, labor disturbance, act of the public enemy, act of terrorism, war, insurrection, riot, fire, storm or flood, earthquake, explosion, accident to or breakage, failure or malfunction of machinery or equipment, any curtailment, order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (other than, as to its own performance, by such Party that is a federal power marketing administration, municipal corporation or other federal, tribal or state governmental entity or subdivision thereof), or any other cause beyond such Party’s reasonable control and to the extent without such Party’s fault or negligence. Economic hardship shall not constitute an Uncontrollable Force under this Agreement.

**1.75** “Voting Payor” means, as of the time of any request for a modification of the Maximum Total Payment Obligation pursuant to section 8.1.3, each Payor that is then a Party to this Agreement (and has not then given notice of withdrawal pursuant to section 18.3 and is not then deemed to have given notice of withdrawal pursuant to section 18.4).

**1.76** “Website” means the website maintained by ColumbiaGrid at [www.columbiagrid.org](http://www.columbiagrid.org).

**1.77** “Western Electricity Coordinating Council” or “WECC” means the Western Electricity Coordinating Council or any successor entity.

**1.78** “Willful Action” means an action taken or not taken by a Party, which action is knowingly or intentionally taken or failed to be taken, with intent that injury or damage would result therefrom or which action is wantonly reckless. Willful Action does not include any act or failure to act which is involuntary, accidental, negligent, or grossly negligent.

**1.79** “WIS Agreement”: see definition 1.2 above.

## **2. Biennial Transmission Plans and Updates**

### **2.1 Adoption of Plans and Effect of Cost Allocation**

Each Planning Cycle, ColumbiaGrid shall develop and review a Draft Biennial Plan and shall adopt, by majority vote of the Board, a Biennial Plan. The first Biennial Plan will be adopted as soon as practicable but in no event later than 30 months after the Effective Date. The planning process to be followed under this Agreement by the Parties is more fully described in Appendix A.

Nothing in this Agreement nor any cost allocation under this Agreement shall obligate any Planning Party to construct, nor obligate any Planning Party to commit to construct, any transmission facilities, regardless of whether such transmission facilities are included in any Plan. Nothing in this Agreement nor any cost allocation under this Agreement will (i) determine any transmission service to be received by, or any transmission usage by, any Person, (ii) obligate any Person to purchase or pay for, or obligate any Person to commit to purchase or pay for, any transmission service or usage, (iii) obligate any Person to implement or effectuate, or commit to implement or effectuate, any cost allocation, (iv) obligate any Person to pay, or commit to pay, costs of any Project or Proposed Project in accordance with any cost allocation, or (v) entitle any Person to recover for any transmission service or usage or to recover from any Planning Party any cost of any transmission facilities, regardless of whether such transmission facilities are included in any Plan. Without limiting the generality of the foregoing, nothing in this Agreement nor any cost allocation under this Agreement will waive, or preclude any Party from exercising, such Party’s rights to contest any matter referenced in this section 2.1, including any cost allocation, before the Commission.

Without limiting the generality of the foregoing, nothing in this Agreement with respect to an Order 1000 Cost Allocation shall preclude Bonneville or any other Party from carrying out any of its statutory authorities or complying with any of its statutory obligations.

## **2.2 Content of Draft Biennial Plans**

Each Draft Biennial Plan shall include the following elements:

- (i) System Assessment Report(s) and Need Statement(s) that have been previously submitted by Staff to the Board;
- (ii) Recommended Near-Term EOP(s), other Recommended EOP(s) that are ready for implementation pursuant to the agreement of the Affected Persons identified by ColumbiaGrid, and Staff-Recommended EOP(s);
- (iii) Recommended Requested Service Project(s) and Staff-Recommended Requested Service Project(s);
- (iv) with respect to a Capacity Increase Project(s):
  - a. for a Capacity Increase Project(s) for which such Project's(s') sponsor(s) has requested a Study Team for Project development, either a Recommended Capacity Increase Project(s) or Staff-Recommended Capacity Increase Project(s); or
  - b. for all other Capacity Increase Project(s), the Capacity Increase Project(s) that have been submitted for inclusion in the Biennial Plan for informational purposes by the TOPP(s) sponsoring such Project(s);
- (v) with respect to Single System Project(s):
  - a. for a Single System Project(s) for which the TOPP sponsoring such Project(s) has requested an Order 1000 Cost Allocation and such Project has been planned through a Study Team pursuant to section 7.3 of Appendix A, either a Recommended Single System Project(s) or Staff-Recommended Single System Project(s); or
  - b. for all other Single System Project(s), the Single System Project(s) on a Transmission System that has been submitted for inclusion in the Biennial Plan for informational purposes by the TOPP that owns or operates such system;
- (vi) Expanded Scope Project(s) that are ready for implementation pursuant to the agreement of the such Project's sponsor(s) and other Affected Persons that are Planning Parties;

(vii) Non-Transmission Alternatives;

(viii) any Proposed Project for which Order 1000 Cost Allocation has been requested in accordance with section 10 of Appendix A, including a statement as to whether such Project was selected as an Order 1000 Project and, if not, the basis upon which such Project was not selected as an Order 1000 Project;

(ix) any Order 1000 Preliminary Cost Allocation Reports for each Order 1000 Project; and

(x) other information included for informational purposes, for example, (a) the status of agreement among Affected Persons with respect to any Project; (b) a description of the extent to which any Project is an Expanded Scope Project; (c) Potential Needs proposed for inclusion in the system assessment and, for those Potential Needs that were not included in the system assessment, the basis upon which they were not selected; (d) any Needs that were included in the System Assessment Report to the extent such Needs are not being met by a Project in the Biennial Plan; (e) information regarding any Proposed Project for which planning through ColumbiaGrid is underway but which is not yet ready for implementation; (f) any Proposed Project for which planning is still at a conceptual or preliminary stage; and (g) disposition or status of any Project included in the prior Biennial Plan.

### **2.3 Content of Biennial Plans**

Each Biennial Plan shall include the following elements:

- (i) as approved by the Board—
  - a. EOP(s);
  - b. Requested Service Project(s);
  - c. Capacity Increase Project(s);
  - d. Single System Project(s);
  - e. Order 1000 Project(s); and
  - f. Order 1000 Cost Allocation Report(s);

and

- (ii) included for informational purposes—
  - a. System Assessment Report(s);

- b. Need Statement(s);
- c. Capacity Increase Project(s);
- d. Single System Project(s);
- e. Expanded Scope Project(s);
- f. Non-Transmission Alternative(s); and
- g. such other information that the Board finds appropriate for inclusion in the Biennial Plan for informational purposes.

#### **2.4 Adoption of Plan Updates**

If at any time ColumbiaGrid determines that changes in planning assumptions or other conditions require the development and approval of a Near-Term EOP or Requested Service Project, or otherwise make a Plan Update appropriate, prior to the adoption of the next Biennial Plan in order for there to be sufficient lead time for implementation, Staff shall develop and the Board shall consider for adoption, a Plan Update of the then current Plan to address such planning assumptions or other conditions. Any Plan Update shall to the extent practicable be based on the then most current assumptions and conditions. After adoption of a Biennial Plan or Plan Update, ColumbiaGrid shall provide all Study Team participants with a copy thereof, and post such Biennial Plan or Plan Update on its Website.

### **3. Plan Methodology**

In developing each Plan, ColumbiaGrid will conduct such activities consistent with this Agreement and will endeavor to:

- (i) facilitate analysis of Proposed Projects as if a single utility owned all relevant generating, transmission, and distribution facilities to enhance efficiency and reduce duplication of facilities, environmental impacts, and costs;
- (ii) model and study the RIS facilities through a system assessment and other analyses assuming that the information necessary to model the Projects is available and taking into account the input of Planning Parties and Interested Persons with respect to Potential Needs, including Potential Needs driven by a Public Policy Requirement;
- (iii) through the system assessment, identify Needs for which potential solutions should be identified and evaluated and task Study Teams to work in an open, transparent, non-discriminatory, and collaborative manner (subject to ColumbiaGrid's obligation to protect Confidential Information and CEII pursuant to this Agreement) to identify and evaluate solutions to address such Needs and

evaluate such solutions, including their consistency with the solution evaluation factors described in section 2.3 of Appendix A;

(iv) apply the Order 1000 Cost Allocation Methodology to any Order 1000 Project in accordance with section 10 of Appendix A;

(v) for Projects other than Order 1000 Projects, as appropriate, apply the cost allocation provisions of sections 5.4, 6.4, 8.4, or 9.4 of Appendix A;

(vi) coordinate, as appropriate, with the planning activities of other regional planning entities and neighboring transmission systems, including other transmission planning regions (as such term is used in Order 1000);

(vii) recognize each TOPP's responsibility for planning Projects on its Transmission System and responsibility for the planning necessary for its Single System Projects and service of its local loads from its Transmission System; and

(viii) with respect to Non-Transmission Alternatives, defer to the development of such alternatives in other appropriate forums and limit analysis of such alternatives to analysis of whether a TOPP-proposed Non-Transmission Alternative will meet or defer a Need.

#### **4. ColumbiaGrid Transmission Planning Process Requirements**

##### **4.1 Duty to Cooperate**

Each Planning Party shall cooperate with and support ColumbiaGrid in the implementation of its responsibilities under this Agreement, which shall, as applicable, include providing data relating to its Electric System or proposed Electric System and individual TOPP planning criteria and performing technical studies regarding its Transmission System as it relates to the RIS. Specifically, each Planning Party shall participate in, and support, ColumbiaGrid's performing annual system assessments and shall participate actively in the Study Teams that are formed to address Needs or develop Proposed Projects for which such Planning Party is an Affected Person. Each Planning Party performing studies contemplated under this Agreement shall keep the Staff informed about those studies and seek the input of the Staff, as appropriate, and shall provide the final studies to the Staff for the use of ColumbiaGrid. Nothing in this Agreement shall prohibit a Planning Party from constructing a transmission facility or expanding its Electric System in a manner that has not yet been reflected in a Plan; *provided that* nothing in this Agreement shall preclude ColumbiaGrid from determining through a system assessment that there are still unmet Need(s) notwithstanding any such facility or expansion or any other facility or expansion. Nothing in this section is intended to prevent ColumbiaGrid from performing studies as needed in accordance with Appendix A.

#### **4.2 Coordinated, Open, Transparent, and Non-Discriminatory Nature of Process**

ColumbiaGrid shall endeavor to implement the transmission planning processes under this Agreement in a coordinated, open, transparent, non-discriminatory, and participatory manner, subject to ColumbiaGrid's obligation to protect Confidential Information and CEII pursuant to this Agreement. These processes are not intended to create any Third Person remedies or rights as to the adequacy of ColumbiaGrid's processes or public review.

#### **4.3 Notice to Potentially Interested Persons**

ColumbiaGrid in consultation with each Study Team shall endeavor to notify the following Persons of the formation and scope of activities of such Study Team with respect to a Proposed Project: (i) all Affected Persons with respect to such Project, (ii) all Persons potentially interested in such Study Team, and (iii) the Interested Persons List, including Pacific Northwest transmission owners and operators and State, Provincial, and Tribal representatives on the Interested Persons List. ColumbiaGrid shall develop protocols regarding procedures designed to identify and notify States and Provinces, including agencies responsible for facility siting, utility regulation, and general energy policy, Tribes, and Pacific Northwest transmission owners and operators that are potentially impacted by Needs or solutions regarding the activities of Study Teams addressing such Needs or solutions. For example, the protocol should include a provision stating that at such time as it becomes apparent to a Study Team that Tribal resources or lands may be impacted, the Study Team should make a reasonable attempt to notify potentially impacted Tribes of its work. ColumbiaGrid may work with the Planning Parties and Pacific Northwest Tribes to compile a database of Tribal lands and culturally significant areas for use under such a protocol.

#### **4.4 Use of Study Teams**

ColumbiaGrid shall assemble Study Teams as more fully described in Appendix A. Such Study Teams are intended to be the primary tool for participation by Planning Parties, Affected Persons, and Interested Persons in the development of Projects defined and included in the Plan. Study Team participants shall bear their own costs of participation. ColumbiaGrid may establish terms and conditions it determines appropriate for participation by any Person in a Study Team, including terms and conditions relating to protection of Confidential Information and CEII.

#### **4.5 Development of Protocol for Communications With and Receiving Input from States, Provinces and Tribes**

ColumbiaGrid shall maintain protocols to foster the collaborative involvement of States, Provinces, and Tribes in the ColumbiaGrid transmission planning process. Such protocols shall guide ColumbiaGrid's communications with Relevant State and Provincial Agencies and Tribes regarding the ColumbiaGrid transmission planning process under this Agreement and shall include the following.

#### **4.5.1 Roles of States and Provincial Agencies in the ColumbiaGrid**

**Transmission Planning Process.** ColumbiaGrid shall maintain as part of its list of Interested Persons an up-to-date service list of Relevant State and Provincial Agencies that have indicated interest in participation in ColumbiaGrid's transmission planning activities or otherwise interested in collaborative involvement with ColumbiaGrid. All Relevant State and Provincial Agencies may participate as non-decisional participants in any Study Team involved in the ColumbiaGrid transmission planning process as set forth in Appendix A. In addition, ColumbiaGrid shall provide the opportunity for direct consultation between its Board or Staff and any Relevant State and Provincial Agency whenever requested by the Agency. Such requests can be in response to proposed ColumbiaGrid actions, at the discretion of the Relevant State and Provincial Agency, or at the request of ColumbiaGrid Board. ColumbiaGrid shall endeavor to have such collaborative consultations take place with any Relevant State and Provincial Agency at least once a year unless deemed unnecessary by such Relevant State and Provincial Agency. Such consultations shall take place at locations selected by the Relevant State and Provincial Agency within reasonable time and budget constraints, and, if requested by the Relevant State and Provincial Agency, shall be an open public meeting.

#### **4.5.2 Development of Protocol for Communications With, and Receiving**

**Input from Tribes.** ColumbiaGrid shall develop a protocol to foster the collaborative involvement of Pacific Northwest Tribes in the ColumbiaGrid transmission planning process. Such protocol shall guide ColumbiaGrid's communications with the Tribes and shall include provisions to keep the Tribes informed regarding ColumbiaGrid's activities as well as provisions to receive input from the Tribes and their authorized representatives in the transmission planning process. For example, the protocol should include a provision stating that at such time as it becomes apparent to a Study Team that Tribal resources or lands may be impacted, the Study Team should make a reasonable attempt to notify potentially impacted Tribes of its work. ColumbiaGrid may work with the Planning Parties and Pacific Northwest Tribes to compile a database of Tribal lands and culturally significant areas for use under such a protocol.

#### **4.6 ColumbiaGrid Development of WECC Submittals**

ColumbiaGrid Staff shall, in consultation with each TOPP (and other Planning Parties as appropriate), develop data submittals on behalf of such TOPP for WECC base case development purposes. Each TOPP agrees to submit to ColumbiaGrid its underlying data for the WECC submittals. TOPPs will have the opportunity to review proposed base cases during the normal WECC review process.

#### **4.7 Third Person Access to ColumbiaGrid Data and Analysis**

ColumbiaGrid shall develop, and revise as necessary, policies regarding the provision of planning data or analysis to Third Persons subject to the appropriate treatment of Confidential Information, information relating to Standards of Conduct matters, and CEII; *provided that* ColumbiaGrid shall make clear on its Website and in other distributions that such data and analysis is being provided as is and that any reliance by the user on such data or analysis is at its

own risk and, specifically, shall make clear (and shall require Third Persons receiving such data or analysis from ColumbiaGrid to enter into separate contracts agreeing) that any such data or analysis is not warranted by ColumbiaGrid or any Planning Party and that neither ColumbiaGrid nor any Planning Party is responsible for any such data or analysis, for any errors or omissions in such data, or for any delay or failure to provide any such data or analysis to such Third Persons.

## **5. Commitment to Move to Common Queue and Explore Other Improvements**

The Parties may develop and adopt separate agreements or amendments to this Agreement that are mutually agreeable to the Parties, pursuant to which a common queue for requests for transmission service and interconnection to any of the TOPPs is implemented. The Parties recognize that implementation of such a common queue will probably require modification of the Open Access Transmission Tariffs of the TOPPS that have such OATTs. ColumbiaGrid may explore improvements to the transmission planning process set out in Appendix A and recommend such improvements to the Planning Parties and recommend amendments to this Agreement that would effectuate such improvements.

## **6. Offer and Execution of Facilities Agreements; Other Agreements**

### **6.1 Agreements to Effectuate Approved EOPs**

The provisions of this section 6 do not apply with respect to any EOP for which an Order 1000 Cost Allocation has been requested.

**6.1.1** In the absence of a request for Order 1000 Cost Allocation in accordance with section 10 of Appendix A and arrangements that ColumbiaGrid determines will effectuate any EOP, ColumbiaGrid shall develop a form of Facilities Agreement for such EOP, which shall be substantially in the form of Appendix B and which shall include the following from the specification of such EOP in the Plan:

- (i) a description of the plan of service for such EOP, including each modification to be made to the RIS by the EOP and the Person(s) to make each such modification;
- (ii) each Person to bear the costs of the EOP and the allocation of such costs; and
- (iii) each Person to receive a share of the transmission capacity, if any, added or maintained by the EOP and the allocation of such benefits to and among such Person(s).

Each Person designated in item (i), (ii), or (iii) ("Designated Person") shall be named as a party in the form of Facilities Agreement for such EOP.

**6.1.2** Ownership and use of any transmission capacity that is:

- (i) added or maintained as a result of an EOP; and
- (ii) added or maintained on the transmission system of a party to a Facilities Agreement as a result of any of the facilities comprising the plan of service under such Facilities Agreement; but
- (iii) specified in Exhibit F of such Facilities Agreement to be owned by another party to such Facilities Agreement;

shall only be pursuant to and shall be governed by a written separate capacity agreement between such parties to be mutually agreed upon between such parties and entered into contemporaneously with such Facilities Agreement; *provided that* in the absence of such a capacity agreement, the use by any party to a Facilities Agreement of any additional capacity on the transmission system of another party to a Facilities Agreement resulting from an EOP that is:

- a. added or maintained as a result of an EOP; and
- b. added or maintained on the transmission system of such party to a Facilities Agreement as a result of any of the facilities comprising the plan of service under such Facilities Agreement; but
- c. specified in Exhibit F of such Facilities Agreement to be owned by another party to such Facilities Agreement;

shall be governed by a transmission agreement between such parties to such Facilities Agreement.

**6.2 Tender and Execution of Form of Facilities Agreements for EOPs**

ColumbiaGrid shall tender the form of Facilities Agreement prepared pursuant to section 6.1 for any EOP to each Designated Person named as a party in such form and allow each such Designated Person 60 days (or such longer period as ColumbiaGrid may determine) after its receipt of such tender to execute and return such form to ColumbiaGrid. No such Designated Person shall have any obligation under this Agreement to enter into such tendered form of Facilities Agreement; *provided that* any such Designated Person that does not enter into such tendered form of Facilities Agreement within such 60 days may be named in a Facilities Petition pursuant to section 6.3 below. ColumbiaGrid shall provide, with each such tender of a Facilities Agreement for an EOP, a description of the EOP Need giving rise to such EOP and the record supporting the Board's decision to approve such EOP, including a description of the process used to develop such EOP and a reference to the Board's decision to approve such EOP. If ColumbiaGrid receives the form of Facilities Agreement so executed by each such Designated Person within 60 days (or such longer period as ColumbiaGrid may determine) after receipt by each such Designated Person of the tender of such form, ColumbiaGrid shall also execute and deliver such Facilities Agreement to each such Designated Person.

Without the prior written consent of all Parties, which consent shall not be unreasonably withheld, no Party that is a party to a Facilities Agreement shall amend such Facilities Agreement to be inconsistent with the pro forma Facilities Agreement. If this Agreement is amended by the Parties so as to amend its attached pro forma Facilities Agreement, ColumbiaGrid shall offer an amendment to each then effective Facilities Agreement that would conform each such Facilities Agreement to such amended pro forma Facilities Agreement.

### **6.3 Facilities Petitions for EOPs**

In the event ColumbiaGrid has not received an executed Facilities Agreement from each Designated Person named as a party therein within 60 days (or such longer period as ColumbiaGrid may determine) after receipt by each such Designated Person of the tender of the form of such Facilities Agreement, ColumbiaGrid shall determine whether any of the Planning Parties intends to file and pursue with the Commission a Facilities Petition with respect to the EOP for which the form of Facilities Agreement was tendered by ColumbiaGrid.

If a Planning Party files such a Facilities Petition naming another Planning Party as a respondent, ColumbiaGrid shall intervene by filing and serving a Facilities Petition Intervention with the Commission. ColumbiaGrid shall not intervene in a proceeding in which only Designated Persons that are not Planning Parties are named as respondents.

If a Person that is not a Planning Party files such a Facilities Petition naming a Planning Party as a respondent, ColumbiaGrid may intervene by filing and serving a Facilities Petition Intervention with the Commission. ColumbiaGrid shall not intervene in a proceeding in which only Designated Persons that are not Planning Parties are named as respondents.

In any Facilities Petition Intervention, ColumbiaGrid shall support the Commission's ordering relief consistent with section 1.21; *provided that* ColumbiaGrid shall not seek (and shall not advocate the imposition of) a fine, civil penalty, or forfeiture for failure to comply with any statute, rule, regulation, order of the Commission, contract, tariff, standard, or criteria; *provided further that* ColumbiaGrid shall not file with the Commission or support any Facilities Petition, and, except as otherwise expressly provided in section 6.3 or 6.5, shall not file or support any pleading with respect to the tendered form of the Facilities Agreement or the EOP that is the subject of such form of Facilities Agreement. ColumbiaGrid shall file each Facilities Petition Intervention that it files pursuant to this section 6.3 on its own behalf and on behalf of all Supporting Planning Parties for such EOP.

In the event that a Canadian entity becomes a Planning Party, the Parties shall negotiate in good faith for an amendment to this Agreement to add a provision comparable to the provisions in this section with respect to ordering the construction of EOPs in Canada.

## **6.4 Waiver of Standing Arguments**

Each Planning Party waives any argument that any Planning Party lacks standing to file a Facilities Petition because the Planning Party filing such petition is not interconnected with the Person against whom such petition is filed.

## **6.5 Prosecution of Facilities Petition Intervention**

ColumbiaGrid shall not prosecute any Facilities Petition Intervention except for filing such Facilities Petition Intervention pursuant to section 6.3, providing factual data, and responding to requests for discovery. Nothing in this Agreement shall preclude any Planning Party from prosecuting any Facilities Petition for any EOP filed with the Commission.

## **6.6 Good Faith Efforts to Renegotiate Sections 6.2, 6.3, and 6.5**

In the event that the Commission (or any court with jurisdiction) determines that the Commission does not have, or in the event that the Commission declines to exercise, jurisdiction over all Designated Persons named as parties in the form of Facilities Agreement for which a Facilities Petition has been filed, jurisdiction over the subject matter of a Facilities Petition, or authority to order the relief sought by the Facilities Petition, each Party shall negotiate in good faith with all other Parties regarding whether and what amendments should be made to provisions of sections 6.2, 6.3, and 6.5 of this Agreement to provide a workable mechanism to facilitate implementation of EOPs for which Facilities Agreements have been tendered but not entered into by all Designated Persons named as parties therein.

## **7. Regional and Interregional Transmission Coordination**

ColumbiaGrid may become a member of and participate in appropriate transmission planning forums, committees, and work groups applicable to the geographic areas served by the Transmission Systems for purposes of collecting and sharing information; *provided that* this section or any such membership or participation shall not authorize ColumbiaGrid to undertake any cost allocation with respect to any transmission facilities or undertake any activities that it is not otherwise authorized to undertake pursuant to and consistent with this Agreement, its Articles of Incorporation, and its Bylaws. Subject to this section and with the prior written consent of a TOPP, ColumbiaGrid may coordinate and submit such TOPP's Transmission System data as required by such forums, committees, and work groups.

## **8. Payment**

### **8.1 Maximum Total Payment Obligation**

**8.1.1 Initial Maximum Total Payment Obligation.** The initial Maximum Total Payment Obligation for a Payment Cycle shall be an amount equal to \$4,200,000. The initial Maximum Total Payment Obligation may be adjusted pursuant to section 8.1.2 and modified pursuant to section 8.1.3.

**8.1.2 Adjustment of Maximum Total Payment Obligation for Changes in CPI Index/GNP Deflator.** As of the beginning of each Payment Cycle that is after the initial Payment Cycle, but for which there is no modification of the Maximum Total Payment Obligation pursuant to section 8.1.3, ColumbiaGrid shall adjust the Maximum Total Payment Obligation to reflect changes in the CPI Index/GNP Deflator.

**8.1.3 Modification of Maximum Total Payment Obligation.** ColumbiaGrid or any Payor may request from time to time a modification in the Maximum Total Payment Obligation for a Payment Cycle, by written request to each of the other Parties not later than 90 days prior to the beginning of such Payment Cycle. The Voting Payors shall vote on such modification no later than 60 days after such request. Such modification shall be approved upon the two-thirds weighted affirmative vote of the Voting Payors (weighted in proportion to their respective percentage Allocated Shares as of the time of the vote). If such modification is so approved for such Payment Cycle, the Maximum Total Payment Obligation shall be as so modified for such Payment Cycle and each subsequent Payment Cycle (unless and until subsequently adjusted by the CPI/GNP Deflator pursuant to section 8.1.2 or subsequently modified pursuant to this section 8.1.3).

**8.1.4 Notice of Adjustment or Modification of Maximum Total Payment Obligation.** ColumbiaGrid shall promptly reflect any adjustment of the Maximum Total Payment Obligation pursuant to section 8.1.2 and any approved modification of the Maximum Total Payment Obligation pursuant to section 8.1.3, and the effective date of such modification or adjustment, in a table. ColumbiaGrid shall distribute such table to each of the Payors and post such table on its Website.

## **8.2 Allocation of Corporate Overhead**

ColumbiaGrid shall determine when and to what extent to allocate corporate expenses to its activities under its functional agreement(s) as provided in provision 7.2 of the Bylaws and shall make such allocation based upon a reasonable assignment (in light of generally accepted cost allocation principles) of costs to each function based upon the costs attributable to each such function. The initial Maximum Total Payment Obligation was set at a level that did not contemplate an inclusion of all such corporate expenses. It is contemplated that requests for modification of the Maximum Total Payment Obligation for Payment Cycles after the initial Payment Cycle may reflect an allocation of additional corporate expenses.

## **8.3 Payor's Payment Obligation**

Subject to section 8.8.4 and the other provisions of this Agreement, each of the Payors agrees to provide to ColumbiaGrid, in response to an Invoice and pursuant to the provisions of this Agreement, amounts equal to such Payor's Allocated Share of each Payment Amount, all of which amounts shall be used by ColumbiaGrid as set forth in section 8.9.1. All dollar amounts set forth in this Agreement are U.S. dollars.

#### 8.4 Allocation of the Payment Amount

ColumbiaGrid shall determine and post on the Website each Payor's Allocated Share of each Payment Amount under each of the Invoices and the effective date of such Allocated Shares pursuant to the following formula:

For each Payor (which includes the New Payor), the—

Payor's Allocated Share = a decimal fraction (expressed as a percentage), in which the denominator equals the MTPO and the numerator equals the following:

$$\begin{aligned} & \$50,000 \text{ per Payment Cycle} + \\ & \{ (\text{MTPO} - \text{TEP}) * \\ & ((X * [\text{dollar value of net transmission plant of such Payor} \div \\ & \quad \text{total dollar value of net transmission plant of all Payors}]) + \\ & (Y * [\text{Annual Area Load of such Payor} \div \\ & \quad \text{total Annual Area Load of all Payors}])) \} \end{aligned}$$

*Except*, in the cases where the above equation results in the Bonneville share of costs exceeding 49.9% of the MTPO, the following revised equation shall be used to determine payment obligations of all Payors excluding Bonneville.

Revised Payor's Allocated Share = a decimal fraction (expressed as a percentage), in which the denominator equals the MTPO and the numerator equals the following:

$$\begin{aligned} & (\text{Payor's numerator from above equation}) + \\ & \{ (\text{MTPO} * (\text{Bonneville's Allocated Share from above equation} - 0.499)) * \\ & ((X * (\text{dollar value of net transmission plant of Payor}) \div \\ & \quad (\text{total dollar value of net transmission plant of all Payors} - \text{dollar} \\ & \quad \text{value of net transmission plant of Bonneville})) + \\ & (Y * (\text{Annual Area Load of Payor}) \div \\ & \quad (\text{total Annual Area Load of all Payors} - \text{Annual Area Load of} \\ & \quad \text{Bonneville})) \} \end{aligned}$$

*Furthermore*, in these cases, Bonneville's Revised Payment Allocated Share shall be a decimal fraction (expressed as a percentage) equal to 0.499.

*Where,*

MTPO = Maximum Total Payment Obligation (pursuant to section 1.25)

TP = Total Payors

TEP = Total Equal Payments = TP \* \$50,000

X = the weighting share for transmission plant applied to the (MTPO – TEP)

Y = the weighting share for annual load applied to (MTPO – TEP)

Where  $X + Y = 1$  and  $X = 4/7$  and  $Y = 3/7$

“net transmission plant” of a Payor means such Payor’s transmission plant, net of depreciation, located in the Pacific Northwest as reflected in such Payor’s then most recent FERC Form 1 or equivalent report

“Annual Area Load” of a Payor means such Payor’s then most recent twelve month load in Giga-watt hours, as reported to the Northwest Power Pool; alternatively, for a Payor that holds long term firm transmission rights on the RIS, but serves no load on the system, this “Annual Area Load” shall be determined by the:

$(\text{contract amount of rights (MW)}) * (8760 \text{ hours})/1000$

or in cases where the party’s long term firm transmission rights are less than for a full year of hours the multiplier shall correspond to the number of hours in the year for which the party does have firm rights

The Annual Area Load of each Party that is a control area operator is reduced if and to the extent any Qualified Person to which such control area operator provides control area services becomes a Party and such Party assumes the payment responsibility calculated using its own load

#### **8.5 Allocation of Subsequent Payment Amounts and Allocated Shares for Subsequent Invoices in the Event of a New Payor**

When any Payor enters into this Agreement after the Effective Date and is thereby a New Payor (or is in a consortium of Planning Parties that together are a New Payor), ColumbiaGrid shall adjust each Payor’s Allocated Share of each Payment Amount for subsequent Invoices based upon the formula set forth in section 8.4 as of the date of the addition of such New Payor. ColumbiaGrid shall also recalculate the Maximum Payor Obligation of each Payor, which recalculated Maximum Payor Obligation of such Payor shall equal the (i) sum of the amount of each previous Invoice made to such Payor based on such Payor’s Allocated Share that was in effect for each such previous Invoice plus (ii) such Payor’s adjusted Allocated Share of the Remaining Maximum Total Payment Obligation as of the addition of such New Payor.

## **8.6 Allocation of Subsequent Payment Amounts and Allocated Shares for Subsequent Invoices in the Event of Withdrawal of a Payor Because of an Adjustment to the Maximum Total Payment Obligation**

When any Payor withdraws from this Agreement pursuant to section 18.3, and a cap results as provided for in section 18.3, ColumbiaGrid shall adjust the Allocated Shares of the Payors which have not exercised, and have not been deemed to exercise, a withdrawal under section 18.3 resulting in a cap in their Maximum Payor Obligations. Such adjustment shall be by an amount necessary to restore the difference between the withdrawing Payor's capped Maximum Payor Obligation, and the Maximum Payor Obligation it would have been assigned had it not opposed the increase and withdrawn. Payors' Maximum Payor Obligations during the pending Payment Cycle shall be adjusted upward only due to the withdrawal of a Payor as a consequence of such Payor's opposition to a modification of the Maximum Total Payment Obligation. ColumbiaGrid shall promptly reflect the adjustment of the Maximum Payor Obligations, and the effective date of any such adjustment, on a table, and shall distribute such table to the Payors and post such table on its Website.

## **8.7 Allocation of Subsequent Payment Amounts and Allocated Shares for Subsequent Invoices in the Event of an Update in Transmission Plant and Load Information**

From time to time, ColumbiaGrid may collect updated net transmission plant and Annual Area Load information from the Payors and recalculate using the formula set forth in section 8.4 the Allocated Shares and the corresponding Maximum Payor Obligations of the Funders, as appropriate, to be effective prospectively, as of the date selected by ColumbiaGrid.

## **8.8 Invoices**

**8.8.1 Invoices.** Each month during the term of this Agreement ColumbiaGrid shall submit an Invoice for services rendered and corporate overhead pursuant to section 8.2 pursuant to this section 8.8 to all Payors for reimbursement of the amount it has expended to implement this Agreement until Invoices (whether issued pursuant to this section 8.8.1 or section 8.8.2) for Payment Amounts in the aggregate totaling the Maximum Total Payment Obligation have been made. ColumbiaGrid shall submit each such Invoice by the tenth day of the month in which it is issued, or the preceding Friday if the tenth falls on a weekend, and shall show in any such Invoice each Payor's Allocated Share of such Invoice.

**8.8.2 Invoices Due to Extraordinary Circumstances.** During the term of this Agreement, ColumbiaGrid may submit Invoices in addition to Invoices pursuant to sections 8.8.1 and 8.8.3, in the extraordinary event that additional Payment Amounts are needed. Any Invoice submitted pursuant to this section 8.8.2 shall include an explanation of the reason why the Invoice is needed, including a description of the extraordinary circumstance.

**8.8.3 Initial Invoice for New Payors.** As of the date a New Payor becomes a Party by executing and delivering this Agreement to ColumbiaGrid and each Planning Party, ColumbiaGrid shall submit an Invoice to the New Payor for \$10,000 as a payment of the allocable value of work performed to date that is of benefit under this Agreement to the New Payor.

**8.8.4 Cap on Payor's Obligation.** Notwithstanding any other provision of this Agreement, ColumbiaGrid shall not at any time submit any Invoice to any Payor for any Payment Amount that, together with Payment Amounts requested by prior Invoices to such Payor, in the aggregate exceeds such Payor's Maximum Payor Obligation then in effect, as calculated and distributed by ColumbiaGrid (plus, in the case of a New Payor, \$10,000). Notwithstanding any other provision of this Agreement, no Payor shall be obligated at any time under this Agreement to provide any Payment Amount under sections 8.8.1 and 8.8.2 that, together with Payment Amounts requested by prior Invoices to such Payor, in the aggregate exceeds such Payor's Maximum Payor Obligation then in effect, as calculated and distributed by ColumbiaGrid (plus any interest that such Payor incurs pursuant to section 8.8.6.3 as a result of late payments by such Payor and plus, in the case of a New Payor, \$10,000 paid pursuant to section 8.8.3).

**8.8.5 Allocation of Invoice.** Each Invoice to a Payor shall be for such Payor's Allocated Share of the total amount of such Invoice; *provided that* the Initial Invoice to a New Payor pursuant to section 8.8.3 shall be made solely to such New Payor without a pro rata call to the other Payors.

#### **8.8.6 Invoice and Payment Details**

**8.8.6.1 Invoice Details.** ColumbiaGrid shall issue each Invoice to all Payors that are Payors as of the date of such call; *provided that* ColumbiaGrid shall issue an Initial Invoice only to a New Payor pursuant to section 8.8.3 without a pro rata call to the other Payors. ColumbiaGrid shall submit any Invoice in writing and delivered by U.S. mail and by e-mail to the person designated for each Payor pursuant to section 19.1. ColumbiaGrid shall provide each Payor with instructions for electronic funds transfer or wire transfer of funds in response to an Invoice.

**8.8.6.2 Payment Details.** Each Payor shall make its payment of its Allocated Share of an Invoice within 20 business days of receiving an Invoice by electronic funds transfer or wire transfer of immediately-available funds.

**8.8.6.3 Interest on Late Payment.** Any Payment Amount not paid when due by a Payor shall bear interest, compounded daily, from the date such amount was due until the date of payment at an annual interest rate equal to the lesser of (i) a rate equal to 200 basis points above the per annum prime rate reported daily in *The Wall Street Journal* and (ii) the maximum rate permitted by applicable law.

**8.8.7 Quarterly Reports.** By the 15th day of each quarter, ColumbiaGrid shall provide each Payor with a quarterly report that contains (i) a detailed projection of the funds from this Agreement that it projects it will use in the current quarter and the remainder of the Payment Cycle and (ii) an accounting of ColumbiaGrid's expenditures of funds received under this Agreement (a) in the previous quarter and (b) since the commencement of the Payment Cycle.

**8.8.8 Voluntary Advanced Payment Amount.** Any Payor may pay to ColumbiaGrid all or a portion of its Allocated Share of any Payment Amount prior to ColumbiaGrid submitting an Invoice for such Payment Amount. At the time of any such advance payment, such Payor shall notify ColumbiaGrid that it is paying funds in advance of the Invoice. ColumbiaGrid shall apply such advance payment as a credit against such Payor's obligation to pay its Allocated Share in response to each subsequent Invoice until such advance payment is exhausted. ColumbiaGrid shall report the remaining balance of any such advance payment in its quarterly report. ColumbiaGrid shall not use any such advance payment as an offset to any other Payor's Allocated Share of any Invoice. ColumbiaGrid may, but shall have no obligation to, pay interest with respect to any such advance payment.

**8.8.9 Over-Payment.** If, in error or as a result of an update of a Payor's Maximum Payor Obligation pursuant to section 8.5, a Payor provides funds in excess of those it is obligated to provide under this Agreement, ColumbiaGrid shall refund to such Payor its excess contribution within five business days of ColumbiaGrid's learning that the funds provided were excess. ColumbiaGrid shall provide each Payor with written notice that it has issued a refund to a Payor pursuant to this section 8.8.9.

## **8.9 Use of Funds**

**8.9.1 General.** ColumbiaGrid agrees that funds provided under this Agreement shall be used only for purposes consistent with this Agreement and ColumbiaGrid's Articles of Incorporation and Bylaws. The payments received under this Agreement are intended to be the primary source of payment for ColumbiaGrid's planning activities. Expenditure of funds available to ColumbiaGrid under this Agreement shall be subject to approval by the Board of Directors of ColumbiaGrid in furtherance of the purposes of ColumbiaGrid consistent with its Articles of Incorporation and Bylaws and consistent with the provisions of this Agreement. Any funds made available under this Agreement shall not be used to reimburse internal costs of the Planning Parties or Interested Persons or costs of Third Persons hired individually by one or more of the Planning Parties or Interested Persons.

## **8.10 Other Terms**

**8.10.1 Waiver of Defense to Payment.** Each Payor waives as a defense to any untimely payment of its Allocated Share of each Invoice any defense that one or more of the other Payors has failed to timely pay its Allocated Share of such Invoice or any other Invoice.

## **9. Budgets**

### **9.1 Rolling Annual Budget**

Annually before the commencement of each fiscal year, ColumbiaGrid shall prepare and adopt a budget for the upcoming two fiscal years for its performance of its obligation under this Agreement. At least 90 days before the adoption of each such rolling annual budget, ColumbiaGrid shall provide the proposed rolling annual budget to the Planning Parties for comment. ColumbiaGrid shall consider any comments on the proposed budget that are provided by any Planning Party.

### **9.2 ColumbiaGrid General Record-Keeping**

ColumbiaGrid shall keep such financial, operational, and other records for its performance and obligations under this Agreement as may be necessary for the efficient operation of ColumbiaGrid and, except as necessary to protect Confidential Information and CEII, shall make such records available upon request for inspection by the Planning Parties. ColumbiaGrid shall comply with the then current record-retention policy of the Commission.

### **9.3 Documentation of Costs Attributable to Specific Project**

At the request of a TOPP, ColumbiaGrid shall provide documentation of its costs relating to its activities in the definition and analysis of a specific Project or Proposed Project; *provided that* any collection of such costs by such TOPP from its transmission or interconnection customer(s) shall be the sole responsibility of the TOPP.

### **9.4 Annual Financial Reporting**

As soon as reasonably practicable after the close of each fiscal year, ColumbiaGrid shall prepare (in accordance with generally accepted accounting principles and regulations of the Commission) and make available to the Planning Parties annual financial statements relating to its activities under this Agreement.

### **9.5 Audit of ColumbiaGrid Records**

Each Planning Party shall have the right to conduct an audit of ColumbiaGrid's performance of its obligations to the Planning Parties under this Agreement; *provided that* the Planning Party requesting the audit shall pay for such audit and provide the result to the other Planning Parties. ColumbiaGrid shall make its records, facilities, and personnel available to the Planning Parties during the conduct of any such audit. Any Planning Party requesting an audit shall pay ColumbiaGrid's reasonable costs of complying with such audit request.

## **10. Standards of ColumbiaGrid Performance**

ColumbiaGrid shall carry out its obligations under this Agreement in an efficient, expeditious, professional, and skillful manner. In providing transmission planning services to

Planning Parties under this Agreement, ColumbiaGrid shall comply with all applicable laws, ordinances, rules, regulations, orders, licenses, permits, and other governmental requirements (including, but not limited to, any such requirements imposed upon Planning Parties with respect to ColumbiaGrid's provision of transmission planning services); *provided that* regulatory requirements imposed on any single Planning Party shall not be deemed applicable to other Planning Parties as a result of this Agreement, nor shall ColumbiaGrid apply in its process any such regulatory requirements to other Planning Parties that are not otherwise applicable to such other Planning Parties.

#### **11. Authorization for ColumbiaGrid to Perform Obligations Under This Agreement**

Planning Parties agree that, unless specifically otherwise provided in this Agreement, ColumbiaGrid is authorized, pursuant to Bylaws Section 6.1, to engage on its own behalf, and not as agent for Planning Parties, in any activity reasonably necessary to perform its obligations under this Agreement, including the hiring of contractors or consultants.

#### **12. Limitation of Liability Among Planning Parties**

Each Planning Party at any time that is both eligible to be a party to the WIS Agreement and operates electrical facilities for generation, transmission, or distribution shall become and remain at all such times a party to the WIS Agreement as a condition of participation in this Agreement.

#### **13. Insurance, Indemnification, and Limitations of Liability**

To promote cooperation among the Parties, to avoid duplication of costs, and to carry out the purposes of this Agreement, the Parties agree to the following provisions for insurance, indemnification, and limited liability.

##### **13.1 Insurance; Waiver of Subrogation Rights**

**13.1.1 ColumbiaGrid Insurance Coverage Requirements.** Throughout the term of this Agreement, ColumbiaGrid shall maintain insurance coverage that at a minimum:

- (i) provides general liability and errors and omissions insurance with respect to ColumbiaGrid's performance under this Agreement;
- (ii) provides for maximum per-occurrence self-insured retention in an amount approved in writing by each Party that is a Party as of the Effective Date;
- (iii) provides general liability coverage limits (with each Planning Party that so opts in writing named as an additional insured) in an amount approved in writing by each Party that is a Party as of the Effective Date and separate errors and omission coverage limits in an amount approved in writing by each Party that is a Party as of the Effective Date;

(iv) provides an agreement or endorsement under which the insurance cannot be terminated, canceled, allowed to expire, or materially altered without 90 days' prior written notice to ColumbiaGrid and provides that such policy is primary over any other insurance; and

(v) provides that ColumbiaGrid's insurer shall be bound by any waivers of the insurer's rights of subrogation granted by ColumbiaGrid.

**13.1.2 Waiver of Subrogation Rights.** ColumbiaGrid hereby waives all rights of subrogation its insurer(s) may have against the Planning Parties and any former Planning Parties.

### **13.2 ColumbiaGrid's Obligation to Notify Planning Parties with Respect to Insurance**

ColumbiaGrid shall not consent or allow that the insurance required under section 13.1.1 above to be terminated, canceled, allowed to expire, or materially altered without providing at least 60 days' advance notice to the Planning Parties. ColumbiaGrid shall notify the Planning Parties with the name, address, telephone number, facsimile number, and e-mail of all insurance brokers used by ColumbiaGrid.

### **13.3 First Party Claims**

ColumbiaGrid shall not be liable to any other Party for any loss or damage to the equipment or Electric System of such other Party, or any loss or damages for bodily injury (including death) that such other Party or its employees may incur arising out of this Agreement or its performance.

### **13.4 Third Person Claims**

**13.4.1** In the event Third Person claims are made against any Party arising out of this Agreement or its performance, the Parties agree as follows.

**13.4.2** In the event of any such claim, the Party against which the Third Person claim is made shall provide immediate notice to the other Parties pursuant to section 19.1 below. All Parties shall make such immediate efforts as necessary to preserve evidence or protect against default judgment, and shall provide notice to the Claims Committee by giving notice to each Party and to the broker identified pursuant to section 13.2 above with respect to the insurance policy described in section 13.1.1 above.

**13.4.3** ColumbiaGrid shall provide notice to each Planning Party and as necessary to its insurance carrier, and refer such matter to the Claims Committee. The Parties anticipate that the Claims Committee shall have responsibility to (i) review any such claims, (ii) take action as necessary to properly investigate, evaluate, and defend such claims, and (iii) make recommendations regarding payment, rejection, or compromise of such claims.

**13.4.4** In the event of legal action resulting from the denial of any such claim, the Parties anticipate that the Claims Committee shall recommend suitably qualified legal counsel to defend such claims. Subject to this section and to the extent permitted by law, the Parties agree, except where there is an irreconcilable conflict of interest, (i) to consent to joint representation in defense of such legal action and (ii) to make good faith efforts to enter into a mutually acceptable joint representation agreement to facilitate cooperation, information sharing, and protection of attorney-client privilege and work product in connection with the joint defense. If joint representation is precluded by an irreconcilable conflict of interest or for any other reason, the Party unable to participate in joint representation shall obtain legal counsel of its own choice, at its own expense, to defend itself in such legal action. Bonneville, as a Planning Party, may but shall not be obligated to comply with sections 13.4.3 and 13.4.4 with respect to any claim against and presented to Bonneville.

**13.4.5** Where the claim or legal action arises in whole or in part from allegedly negligent actions or inactions of ColumbiaGrid in performance of obligations of this Agreement, the self-insured retention and the policy coverage described in section 13.1.1 above shall be regarded as primary with respect to payments or judgments resulting from any such claim or legal action. Payments shall include reasonable attorneys' fees and costs of investigation and defense. To the extent of insurance coverage and the extent permitted by applicable law, ColumbiaGrid shall indemnify, defend, and hold each Planning Party harmless from and against all damages based upon or arising out of bodily injuries or damages to Third Person(s) or parties, including without limitation death resulting therefrom, or physical damages to or losses of property caused by, arising out of, or sustained in connection with performance of this Agreement to the extent attributable to the negligence of ColumbiaGrid or its employees, agents, suppliers, and subcontractors (including suppliers and subcontractors of subcontractors; hereinafter "Subcontractors"). As used in this section 13.4.5, "damages" means any claims, losses, costs, expenses, damages (including without limitation direct, indirect, incidental, consequential, special, exemplary, and punitive damages), payments made in settlement, arbitration awards, and liabilities, including reasonable attorneys' fees.

### **13.5 Inaccurate or Incomplete Data or Information**

Liability as between Parties for incomplete or inaccurate data or information shall be subject to the limitations set forth in section 13.6 below, and shall be limited as follows. Each Party shall make good faith efforts to cause data and information provided under this Agreement to be accurate; *provided however that* ColumbiaGrid shall not be liable for damages resulting from the provision of inaccurate or incomplete data or information, except to the extent that such inaccuracy or incompleteness results from ColumbiaGrid's Willful Action.

### **13.6 Limitation of Damages**

As between ColumbiaGrid and any Planning Party and as between Planning Parties, each of those Parties waives as against the other of those Parties (including its directors, commissioners, officers, and employees) all claims, and otherwise covenants not to sue or

otherwise pursue any claim or remedy, arising out of or in connection with this Agreement or its performance (whether based on contract, tort, or any other legal theory), except for:

(i) claims arising under section 13.4.5 of this Agreement with respect to Third Person actions; and

(ii) claims for actual, direct damages only, which shall under no circumstances include any lost profits, lost data, or any indirect, incidental, consequential, special, exemplary, or punitive damages;

*provided that* nothing in this Agreement shall apply to claims for loss or damage between Planning Parties that are within the scope of the WIS Agreement.

#### **14. Uncontrollable Force**

A Party shall not be in breach of this Agreement as a result of such Party's failure or delay to perform its obligations under this Agreement when such failure is caused by an Uncontrollable Force that such Party, despite the exercise of due diligence, is unable to remove with reasonable dispatch; *provided however that* such Party shall have the right to suspend performance of such obligations only to the extent and for the duration that the Uncontrollable Force actually and reasonably prevents the performance of such obligations by such Party. In the event of the occurrence of an Uncontrollable Force that delays or prevents a Party's performance of any of its obligations under this Agreement, such Party shall (i) immediately notify the other Parties of such Uncontrollable Force with such notice to be confirmed in writing as soon as reasonably practicable, (ii) use due diligence to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligations under this Agreement, (iii) keep the other Parties apprised of such efforts on an ongoing basis, and (iv) provide written notice of the resumption of performance under this Agreement. Notwithstanding any of the foregoing, the settlement of any strike, lockout, or labor dispute constituting an Uncontrollable Force shall be within the sole discretion of the Party to this Agreement involved in such strike, lockout, or labor dispute; and the requirement that a Party must use due diligence to remedy the cause of the Uncontrollable Force or mitigate its effects and resume full performance hereunder shall not apply to strikes, lockouts, or labor disputes.

#### **15. Assignments and Conveyances**

##### **15.1 Successors and Assigns**

This Agreement is binding on and shall inure to the benefit of the Parties and their respective successors, permitted assigns, and legal representatives.

##### **15.2 Assignment of ColumbiaGrid's Rights and Obligations**

ColumbiaGrid shall not, without the prior written consent of each of the Planning Parties, assign, pledge, or transfer all or any part of, or any right or obligation under, this Agreement, whether voluntarily or by operation of law; *provided* nothing in this section 15.2 shall prohibit

ColumbiaGrid from contracting with Third Persons for the provision of services to assist ColumbiaGrid in performing its obligations under this Agreement.

### **15.3 Assignment of a Planning Party's Rights and Obligations**

Except as otherwise provided in section 15.4, a Planning Party shall not, without the prior written consent of ColumbiaGrid, assign, pledge, or transfer all or any part of, or any right or obligation under, this Agreement, whether voluntarily or by operation of law; *provided however* that a Planning Party may, without the consent of ColumbiaGrid, assign its rights and obligations under this Agreement to any Person (i) into which the Planning Party is merged or consolidated or (ii) to which the Planning Party sells, transfers, or assigns all or substantially all of its Electric System, so long as the survivor in any such merger or consolidation, or the purchaser, transferee, or assignee of such Electric System provides to ColumbiaGrid a valid and binding written agreement expressly assuming and agreeing to be bound by all obligations of the Planning Party under this Agreement.

### **15.4 Assignment of Facilities**

Notwithstanding any other provision of this Agreement, a TOPP may pledge or assign all or any portion of its Transmission System without any other Party's consent.

### **15.5 Effect of Permitted Assignment**

In the event of any permitted sale, transfer, or assignment under this Agreement, the transferor or assignor shall to the extent of the transferred or assigned obligations, and only to such extent, be relieved of obligations accruing from and after the effective date of such transfer or assignment; *provided however* that under no circumstances shall any sale, transfer, or assignment relieve the transferor or assignor of any liability for any breach of this Agreement occurring prior to the effective date of such transfer or assignment.

### **15.6 Consent Not Unreasonably Denied or Delayed**

Consents to assignment, pledge, or transfer requested pursuant to this section 15 shall not be unreasonably denied or delayed.

## **16. Confidentiality Obligations**

### **16.1 Protection of Confidential Information**

Parties seeking designation of Confidential Information shall act in good faith when asserting the confidentiality of material. Each Party shall use reasonable efforts to maintain the confidentiality of all Confidential Information provided to it by another Party pursuant to this Agreement. In the event a dispute arises related to the designation of Confidential Information under this Agreement, representatives of the Parties with authority to settle the dispute shall meet and confer in good faith in an effort to resolve the dispute. If the dispute is not so resolved, the dispute may, if the disputing Parties so elect, be resolved by arbitration as follows. Any

arbitration initiated under this Agreement shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten days of the referral of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three member arbitration panel. The two arbitrators so chosen shall within 20 days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric industry matters, including electric transmission issues, and, unless otherwise agreed by the Parties to the dispute, shall not have any current or past substantial business or financial relationships with any Party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

## **16.2 Protection of Critical Energy Infrastructure Information**

If a Party designates information as “Critical Energy Infrastructure Information” as of the time of its furnishing, ColumbiaGrid shall not post such information on the public portion of its Website. If any Party, or other Person, seeks information so designated as CEII, ColumbiaGrid shall immediately notify the disclosing Party to seek its consent to release such information. If the disclosing Party does not consent, ColumbiaGrid shall not release the CEII and shall inform the requesting Party of the disclosing Party’s decision. Further, if information designated by a Party as CEII is made part of a filing submitted by ColumbiaGrid with the Commission, ColumbiaGrid shall take reasonable steps to ensure the protection of such information pursuant to the 18 C.F.R. § 388.112(b).

## **16.3 Disclosure Pursuant to Statute or Administrative or Judicial Order**

Each Party shall use reasonable efforts to maintain the confidentiality of all Confidential Information provided to it by another Party pursuant to this Agreement; *provided however* that each Party shall be entitled to disclose such Confidential Information if it is required to make such disclosure by statute or administrative or judicial order or if it makes such disclosure pursuant to a protective order of the administrative or judicial body. Each Party shall, promptly upon receipt of a request for such Confidential Information (or receipt of a notice of a request to an administrative or judicial forum for the public disclosure of such Confidential Information), notify the other Party and other affected Planning Parties of any such request. A Party whose Confidential Information is sought to be released may, in its sole discretion and at its sole cost and expense, undertake any challenge to such disclosure.

## **16.4 Disclosure of Information Subject to Standards of Conduct**

If a Party furnishes information marked as “Standards of Conduct Information” at the time of its furnishing, ColumbiaGrid shall not disclose such information to any Party, including the disclosing Party, or any Third Person unless such disclosure would be consistent with the Commission’s regulations in 18 C.F.R. Part 358.

## **17. Effective Date**

### **17.1 Original Parties**

Except as provided in section 17.2, this Agreement shall become effective for all Parties on April 4, 2007; *provided that* with respect to a Planning Party subject to Commission jurisdiction, if the Commission asserts jurisdiction and does not accept this Agreement or any subsequent amendment for filing or accepts this Agreement or any subsequent amendment for filing but in connection with such acceptance requires a change in, or imposes a new condition on, this Agreement, this Agreement shall be effective thereafter only if all of the Parties agree in writing to such change or condition.

The Third Amendment and Restatement shall not become effective unless and until:

(i) the Third Amendment and Restatement is filed with the Commission by Avista Corporation and Puget Sound Energy, Inc. and such filings are accepted by the Commission (a) unconditionally or (b) with no change or condition that is inconsistent with the Third Amendment and Restatement and that is not accepted in writing by each Party; and

(ii) the intraregional compliance filings in response to Order 1000 of Avista Corporation and of Puget Sound Energy, Inc. are accepted by the Commission (a) unconditionally or (b) with no change or condition that is inconsistent with the Third Amendment and Restatement and that is not accepted in writing by each Party.

Unless and until the Third Amendment and Restatement becomes effective pursuant to the preceding sentence, the Agreement shall be as set forth absent the Third Amendment and Restatement.

### **17.2 Subsequent Planning Parties**

With respect to any Qualified Person who executes this Agreement after the Effective Date established pursuant to section 17.1, this Agreement shall be effective as to such Qualified Person as of the date it executes this Agreement by executing a counterpart signature page of this Agreement and delivers such counterpart signature page to ColumbiaGrid, which shall maintain such original counterpart signature page and shall prepare and distribute a conformed copy thereof to each of the Planning Parties.

### **17.3 Regulatory Filings, if Any**

ColumbiaGrid shall make any necessary regulatory filing of this Agreement (promptly after it is offered) or subsequent amendments with the Commission on behalf of each Planning Party that would otherwise have to submit this Agreement for filing because it is subject to Commission jurisdiction and that requests ColumbiaGrid to make such a filing.

## **18. Withdrawal**

Any Planning Party may withdraw from this Agreement pursuant to this section 18.

### **18.1 Notice of Potential Withdrawal**

Prior to withdrawing, a Planning Party intending to withdraw (“Withdrawing Party”) from this Agreement shall provide written notice to the other Planning Parties and ColumbiaGrid stating that it intends to withdraw from this Agreement and setting out the reasons for its withdrawal.

### **18.2 Discussion of Concerns**

The chief executive officer or equivalent executive of the Parties, including the Withdrawing Party, shall promptly discuss the reasons for the Withdrawing Party’s withdrawal to determine whether this Agreement can be amended in a manner that is acceptable to all of the Parties.

### **18.3 Notice of Withdrawal**

If notwithstanding the discussion pursuant to section 18.2, the Withdrawing Party still intends to withdraw, such Party shall provide each of the Parties with a written notice of withdrawal. Such notice (or a deemed notice of withdrawal pursuant to section 18.4) shall commence a withdrawal period of 30 months or one complete biennial Planning Cycle, whichever expires earlier (“Withdrawal Period”). During the Withdrawal Period, the Withdrawing Party shall continue to be obligated as a Payor to pay its Maximum Payor Obligation in effect at the time of such Withdrawing Party’s notice of withdrawal during the Withdrawal Period; *provided further that* if the Withdrawing Party is withdrawing because of a modification of the Maximum Total Payment Obligation under section 8.1.3 and such Withdrawing Party voted against the modification, such Withdrawing Party’s obligation to pay its Maximum Payor Obligation shall be capped at the amount in effect immediately prior to such modification. During such Withdrawal Period, a Withdrawing Party shall not be a Voting Payor unless or until it rescinds its Notice of Withdrawal in accordance with section 18.5. At the end of the Withdrawal Period, all rights and obligations under this Agreement of the Withdrawing Party shall terminate; *provided that* all obligations and liabilities accrued under this Agreement through any such termination are hereby preserved until satisfied. Withdrawal of a Planning Party does not affect obligations assumed by such Party pursuant to Facilities Agreements.

### **18.4 Effect of Default**

In the event a Planning Party fails to perform its payment obligations under section 8.3, and such failure is not cured within 30 days of the date payment was due, that Planning Party shall be deemed to have given a notice of withdrawal under section 18.3.

## **18.5 Rescission of Notice of Withdrawal**

If a Withdrawing Party rescinds its notice of withdrawal during the Withdrawal Period and such Withdrawing Party has paid ColumbiaGrid its Allocated Share of all Invoices issued by ColumbiaGrid as of the date of such rescission, such Withdrawing Party shall not be considered a New Payor and shall not be required to pay the New Payor fee under section 8.8.3. If such Withdrawing Party withdrew because of a modification of the Maximum Total Payment Obligation under section 8.1.3 and, pursuant to section 18.3, such Withdrawing Party has not been paying a share of the increase in the Maximum Total Payment Obligation, the Withdrawing Party shall also pay ColumbiaGrid an amount equal to such Withdrawing Party's Allocated Share of the amount such Withdrawing Party did not pay under this Agreement as a result of its withdrawal plus interest on such unpaid amount from the time it would have been paid in the absence of such withdrawal and continuing until such amount is paid. Such interest shall be compounded daily at an annual interest rate equal to the lesser of (i) a rate equal to 200 basis points above the per annum prime rate reported daily in *The Wall Street Journal* or (ii) the maximum rate permitted by applicable law.

## **18.6 Accelerated Withdrawal**

If, as a result of an initial submittal for filing of this Agreement with the Commission by ColumbiaGrid pursuant to section 17.3, the Commission fails to accept this Agreement for filing without change or condition within 120 days after filing, then any Planning Party may withdraw from this Agreement during the 90 day period following the Commission's action or the expiration of 240 days after initial submittal for filing of this Agreement, whichever comes first. Such withdrawal shall be upon written notice to all other Planning Parties. Such accelerated withdrawal shall not be subject to the requirements of sections 18.1 through 18.3, and the Planning Party exercising a right of accelerated withdrawal shall have no further obligation under this Agreement to make payments or participate after notice pursuant to this section; *provided that* those other obligations which, in the ordinary course, would survive termination of this Agreement by all Planning Parties shall survive. A holding by the Commission that it does not require this Agreement to be on file shall not constitute a basis for accelerated withdrawal.

## **19. Miscellaneous**

### **19.1 Notices Under This Agreement**

**19.1.1 Permitted Methods of Notice.** Any notice, demand, or request to a Party in accordance with this Agreement, unless otherwise provided in this Agreement, shall be in writing and shall be deemed properly served, given, or made to the address of the receiving Party set forth below (i) upon delivery if delivered in person, (ii) upon execution of the return receipt, if sent by registered United States or Canadian mail, postage prepaid, return receipt requested, or (iii) upon delivery if delivered by prepaid commercial courier service.

The address of ColumbiaGrid shall be:

8338 NE Alderwood Road  
Suite 140  
Portland, OR 97220  
Attn: Allen Burns

The addresses of the Planning Parties shall be:

Avista Corporation:

1411 E. Mission Ave.  
Spokane, WA 99202-1902  
Attn: Manager, Transmission Services

Bonneville Power Administration:

P.O. Box 3621  
Portland, OR 97208-3621  
Attn: Rodereck Kelley

Enbridge, Inc.:

150 King St. West, Suite 2512  
Toronto, ON, M5H 1J9  
Canada  
Attn: Robert Van Beers

Public Utility District No. 1 of Chelan County, Washington:

P.O. Box 1231  
Wenatchee, WA 98807-1231  
Attn: Chad Bowman

Public Utility District No. 1 of Cowlitz County, Washington:

P.O. Box 3007  
Longview, WA 98632  
Attn: Rick Syring

Public Utility District No. 1 of Douglas County, Washington:

1151 Valley Mall Parkway  
East Wenatchee, WA 98802  
Attn: Jeff Heminger

Public Utility District No. 2 of Grant County, Washington:

P.O. Box 878  
Ephrata, WA 98823  
Attn: Rod Noteboom

Puget Sound Energy, Inc.:

P.O. Box 97034  
Bellevue, WA 98009  
Attn: George Marshall, Director, Electric Transmission

The City of Seattle, a municipal corporation of the State of Washington, acting by and through its City Light Department:

700 Fifth Avenue, Suite 3300  
Seattle, WA 98124  
Attn: Tuan Tran, Director, Energy Delivery Engineering

Public Utility District No. 1 of Snohomish County, Washington:

P.O. Box 1107  
Everett, WA 98206-1107  
Attn: John D. Martinsen – E4

The City of Tacoma, Department of Public Utilities, Light Division  
(dba Tacoma Power):

P.O. Box 11007  
Tacoma, WA 98411-0007  
Attn: Shirley Eshbach

**19.1.2 Change of Notice Address.** Any Party may at any time, by notice to ColumbiaGrid, change the designation or address of the person specified to receive notice on its behalf. In such case, ColumbiaGrid shall promptly notify all of the other Planning Parties of such change.

**19.1.3 Routine Notices.** Any notice of a routine character in connection with this Agreement shall be given in such a manner as the Parties may determine from time to time, unless otherwise provided in this Agreement.

**19.1.4 Initial Address of Subsequent Planning Party.** Any Qualified Person that executes this Agreement after the Effective Date pursuant to section 17.2 shall promptly give ColumbiaGrid notice of the designation and address of the person specified to receive notice

on its behalf. In such case, ColumbiaGrid shall promptly notify all of the other Planning Parties of such designation and address.

## **19.2 Amendment or Modification**

This Agreement may not be amended or modified except by any subsequent mutual written agreement, duly executed by all then current Parties to this Agreement. If any provision of this Agreement, or the application thereof to any person, entity, or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification, or condition. If a Party finds such holding, modification, or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, a Party may by written notice to each other Party withdraw from this Agreement pursuant to section 18; *provided that* the Withdrawal Period for any such withdrawal shall be 15 days.

## **19.3 Construction of Agreement**

Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in a manner that most accurately reflects the purpose of this Agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed.

## **19.4 Integration**

This Agreement, including the appendices hereto, constitutes the complete agreement of the Parties and supersedes all prior or contemporaneous representations, statements, negotiations, understandings, and inducements with respect to the subject matter of this Agreement. The appendices hereto, as they may be revised from time to time, are incorporated by reference as if fully set forth in this Agreement.

## **19.5 Existing Agreements Preserved**

Nothing in this Agreement shall be interpreted to supersede the requirements of any existing agreement unless otherwise expressly stated herein.

## **19.6 Governing Law**

This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington, except to the extent that such laws may be preempted by the laws of the United States or of Canada, as applicable; *provided however* that notwithstanding the foregoing, with respect to a dispute involving a Planning Party that is a United States government entity (including, but not limited to, a federal power marketing

administration), this Agreement shall in all respects be interpreted, construed, and enforced in accordance with the laws of the United States. The Parties acknowledge that with respect to a Planning Party that is an agency of the United States federal government, under law in effect as of the Effective Date, such agency has not by this Agreement waived its sovereign immunity.

### **19.7 Equitable Relief**

If the Planning Party seeks injunctive or other equitable judicial relief for the failure of ColumbiaGrid to comply with its obligations to the Planning Party under this Agreement, ColumbiaGrid agrees not to challenge such action on the basis that monetary damages would be a sufficient remedy.

### **19.8 Singular and Plural; Use of “Or”**

Any use of the singular in this Agreement also includes the plural and any use of the plural also includes the singular. References to “or” shall be deemed to be disjunctive but not necessarily exclusive. References to “including,” “include,” and “includes” shall be deemed to mean “including but not limited to,” “include but not limited to,” and “includes but not limited to,” respectively.

### **19.9 Headings for Convenience Only**

The section headings in this Agreement are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provisions of this Agreement.

### **19.10 Relationship of the Parties**

**19.10.1 No Partnership, Etc.** Nothing contained in this Agreement shall be construed to create an agency, association, joint venture, trust, or partnership or to impose a trust or partnership covenant, obligation, or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement.

**19.10.2 Rights Several.** All rights of the Parties are several, not joint. Except as may be expressly provided in this Agreement, no Party shall have a right or power to bind any other Party without such other Party’s express written consent.

### **19.11 No Third Person Beneficiaries**

This Agreement shall not be construed to create rights in, or to grant remedies to, any Third Person as a beneficiary of this Agreement or of any duty, obligation, or undertaking established in this Agreement. Nothing in this Agreement is intended to restrict the right of any Planning Party or Interested Party to seek an order from the Commission under the Federal Power Act.

### **19.12 No Dedication of Facilities**

No undertaking by any Planning Party under or pursuant to any provision of this Agreement shall constitute or be deemed to constitute a dedication of all or any portion of such Planning Party's Transmission System, to any other Party or to the public.

### **19.13 Nonwaiver**

Any waiver at any time by any Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any other default or other matter arising in connection with this Agreement. Any waiver must be delivered in writing, executed by an authorized representative of the Party granting such waiver. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

### **19.14 Further Actions and Documents**

Each Party agrees to do all things, including, but not limited to, the preparation, execution, delivery, filing, and recording of any instruments or agreements reasonably requested by any other Party necessary to carry out the provisions of this Agreement.

### **19.15 Counterparts**

This Agreement may be executed in counterparts, which may be executed at different times. Each counterpart shall constitute an original but all counterparts together shall constitute one and the same instrument. ColumbiaGrid shall maintain the original signature pages, and shall prepare and distribute a conformed copy of this Agreement to the Planning Parties.

### **19.16 No Expansion of Commission Authority**

Nothing in this Agreement, or any undertaking by or with ColumbiaGrid, is intended to (i) create or grant the Commission authority over entities or matters which it would not otherwise have, (ii) imply or establish that any Party agrees, or is precluded from contesting, as to whether or the extent to which the Commission has jurisdiction over a Party or matter or has the authority to order particular relief, (iii) create a contractual obligation under this Agreement to comply with any order in response to a Facilities Petition, or (iv) confer upon the Commission any role as arbitrator under this Agreement or any other decision-making role not expressly conferred upon the Commission by the Federal Power Act.

### **19.17 Representation of Qualified Person Status**

Each Planning Party, upon its execution and delivery of this Agreement, represents that such Planning Party is a Qualified Person.

**19.18 Representation of Authority**

Each Party, upon its execution and delivery of this Agreement, represents that it has authority to enter into and perform this Agreement. Each Party represents that the individual signing this Agreement on its behalf is authorized to sign this Agreement on behalf of the Party for which such individual signs.

**19.19 Planning Parties Records and Information Sharing**

Each Planning Party shall maintain and make available for ColumbiaGrid’s inspection at such Planning Party’s facilities, during normal business hours and upon request, data, records and drawings describing the physical and electrical properties of such Planning Party’s Electric System, subject to any applicable provisions for protection of Confidential Information and CEII.

**19.20 Other Reports**

ColumbiaGrid may, upon reasonable notice to a Planning Party, request that such Planning Party provide ColumbiaGrid with such other information or reports as ColumbiaGrid may reasonably deem necessary for its performance of this Agreement. The Planning Party shall, except to the extent prohibited by law, make all such information or reports available to ColumbiaGrid within a reasonable period of time and in a form specified by ColumbiaGrid, subject to any applicable provisions for protection of Confidential Information and CEII.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective names.

**ColumbiaGrid**

**Avista Corporation**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Bonneville Power Administration**

**Public Utility District No. 1 of  
Chelan County, Washington**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Public Utility District No. 1 of  
Cowlitz County, Washington**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Public Utility District No. 1 of  
Douglas County, Washington**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Enbridge, Inc.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Public Utility District No. 2 of  
Grant County, Washington**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Puget Sound Energy, Inc.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The City of Seattle, a municipal corporation  
of the State of Washington, acting by and  
through its City Light Department**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Public Utility District No. 1 of  
Snohomish County, Washington**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The City of Tacoma, Department  
of Public Utilities, Light Division  
(dba Tacoma Power)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# APPENDIX A

## TRANSMISSION PLANNING PROCESS

### 1. On-Going Planning Activities; Iterative Process; Interim Approval

Although the transmission planning process identified in this Appendix is described sequentially, it is anticipated that the planning activities under this Agreement will be performed on a flexible, iterative, and non-sequential basis. Accordingly, for example, ColumbiaGrid may submit Draft Need Statements to the Board as needed for review and comment without waiting until such time as the Draft System Assessment Report is submitted for review and comment.

### 2. Criteria and Factors

#### 2.1 Planning Criteria

ColumbiaGrid shall apply the then current versions of the following as Planning Criteria for its system assessment, System Assessment Reports, and Need Statements:

- (i) planning standards applicable to TOPPs pursuant to law or regulation;
- (ii) NERC reliability standards;
- (iii) recognized regional planning or other reliability or transmission adequacy criteria developed by the consensus of the TOPPs for use on their Transmission Systems (ColumbiaGrid may sponsor a process for development of such criteria); *provided that* a TOPP may have other planning criteria that are more stringent than the ColumbiaGrid standards for use on its own Transmission System; and
- (iv) with respect to planning criteria applicable to any particular TOPP, such additional criteria then accepted by such TOPP and communicated to ColumbiaGrid by written notice; *provided that* any such additional criteria shall apply only to such TOPP.

#### 2.2 Needs Factors

The factors used in selecting among Potential Needs for inclusion in the system assessment shall include the following, as appropriate:

- (i) the level and form of support for addressing the Potential Need (such as indications of willingness to purchase capacity and existing transmission service requests that could use capacity consistent with solutions that would address the Potential Need);

- (ii) the feasibility of addressing the Potential Need;
- (iii) the extent, if any, that addressing the Potential Need would also address other Potential Needs; and
- (iv) the factual basis supporting the Potential Need.

No single factor shall necessarily be determinative in selecting among Potential Needs for inclusion in the system assessment.

### **2.3 Solution Evaluation Factors**

The factors used in evaluating proposed solutions to address Needs shall include the following, as appropriate:

- (i) in the case of a Proposed Project, sponsorship and degree of development of a proposal for such Project;
- (ii) feasibility;
- (iii) coordination with any affected Transmission System and any other Affected Persons;
- (iv) economics;
- (v) effectiveness of performance;
- (vi) satisfaction of Need(s), including the extent to which the proposed solution satisfies multiple Needs; and
- (vii) consistency with applicable state, regional, and federal planning requirements and regulations.

No single factor shall necessarily be determinative in evaluating proposed solutions to address Needs.

### **2.4 Non-Transmission Alternatives**

In the evaluation of a Non-Transmission Alternative, if the Study Team determines that such alternative has a reasonable degree of development, eliminates or defers the Need(s) being studied by the Study Team, and is reasonable and adequate considering the factors described in section 2.3 above of this Appendix A, the Non-Transmission Alternative should be noted in the Plan. If such alternative is adopted by the Person on whose Electric System it would be located, such Non-Transmission Alternative shall be included in the assumptions used in future system assessments, subject to subsequent updates on the status of such Non-Transmission Alternative.

### 3. System Assessment Report and Need Statements

Each year, ColumbiaGrid, in coordination with the Planning Parties and Interested Persons, shall prepare a Draft System Assessment Report that includes Draft Need Statements for the Biennial Plan then being developed; *provided that* Draft Need Statements need not be prepared for a Draft System Assessment Report for the second year of a Planning Cycle for any Need already identified in the previous system assessment or for any EOP Need that does not require a Near-Term EOP solution.

The procedure for the preparation of the Draft System Assessment Report and Draft Need Statements shall be as follows:

**3.1.1** ColumbiaGrid, in coordination with the Planning Parties and Interested Persons, shall perform an assessment through screening studies of the RIS using the Planning Criteria to:

- (i) identify EOP Needs projected to occur during the Planning Horizon; and
- (ii) identify Needs other than EOP Needs projected to occur during the Planning Horizon as follows:
  - a. ColumbiaGrid, in coordination with the Planning Parties and Interested Persons, shall consider and select Potential Needs from among the following for inclusion in the system assessment, based upon the factors as described in section 2.2 above of this Appendix A:
    - 1. Potential Need of a TOPP identified by such TOPP:
      - A. to respond to requests for transmission service and interconnection;
      - B. to increase capacity on its Transmission System; and
      - C. for a Single System Project;
  - and
  - 2. Potential Need identified by any Person for increased transmission capacity on the RIS.
- b. ColumbiaGrid shall document the basis upon which a Potential Need was not selected for inclusion in the system assessment.

**3.1.2** ColumbiaGrid shall perform the system assessment and base such assessment on the then current and appropriate WECC planning base cases; *provided that* Planning Parties shall provide updates to the input previously provided to ColumbiaGrid pursuant to sections 4.1 and 4.6 of the body of this Agreement. ColumbiaGrid shall insofar as practicable update the then current WECC planning base case to reflect such updated information so that the system assessment reflects on-going projects on the RIS and the likely completion dates of such projects to the extent such projects and completion dates are reasonably forecasted to occur prior to the end of the Planning Horizon.

**3.1.3** ColumbiaGrid shall determine in each system assessment, with respect to any Order 1000 Project included in the Plan, the status and on-going progress of such Project. The Order 1000 Sponsor shall provide for each such system assessment, and such determination will be based on, updated Project information. The system assessment will include an assessment of whether such Project continues to be expected to meet the underlying Need(s) in a timely manner. If such Project does not so continue to be expected to meet such Need(s) in a timely manner, ColumbiaGrid may remove such Project from its Biennial Plan. Upon such removal, such Project shall not be an Order 1000 Project. It is recognized that such removal may result in alternative solutions in the transmission planning process to meet any applicable Need(s).

**3.1.4** ColumbiaGrid shall post drafts of the system assessment results as they become available during the system assessment process on its Website subject to any appropriate conditions to protect Confidential Information and CEII.

**3.1.5** ColumbiaGrid, in coordination with Planning Parties and Interested Persons, shall prepare a Draft System Assessment Report. Such Draft System Assessment Report shall reflect Needs that the system assessment has projected to occur during the Planning Horizon.

(i) During the development of the Draft System Assessment Report, each Planning Party shall endeavor to inform Staff of any material change in conditions (anticipated to occur during the Planning Horizon) with respect to such Planning Party of which it is aware affecting any Need(s) under consideration in the Draft System Assessment Report as a Need.

(ii) ColumbiaGrid shall, insofar as practicable, take into account any such updates in its Draft System Assessment Report.

**3.1.6** ColumbiaGrid, in coordination with the Planning Parties and Interested Persons, shall (i) consider Proposed Projects, and shall develop conceptual transmission solutions, that address any Need(s) (other than any Need(s) that is expected to result in a Single System Project for which Order 1000 Cost Allocation has not been requested in accordance with section 10 of this Appendix A) and (ii) identify which EOP Needs and related conceptual solutions are likely to result in Near-Term EOPs.

a. ColumbiaGrid, in coordination with the Planning Parties and Interested Persons, shall develop a Draft Need Statement for each such Need. Each such Draft Need Statement shall include the following information at a minimum:

1. a narrative description of the Need and the assumptions, applicable Planning Criteria, and methodology used to determine the Need;
2. one or more conceptual transmission-based solutions to meet the Need with estimated timelines and estimated costs to implement each such solution; and
3. an indication of whether a non-transmission solution might be viable to eliminate or delay the necessity for such a transmission-based solution.

In the event that the Planning Parties, Interested Persons participating in the system assessment, and ColumbiaGrid do not reach consensus on the content of any such Draft Need Statement, Staff shall determine the content of such Draft Need Statement; *provided that* in making its determination, Staff shall consider any comments and possible transmission solutions suggested by any Planning Party or Interested Person; *provided further that* ColumbiaGrid shall note in the Draft Need Statement that it determined the content of such statement and shall report the comments of Planning Parties and Interested Persons.

**3.1.7** ColumbiaGrid shall post drafts of the Draft Need Statements, as they become available, on the Website subject to any appropriate conditions to protect Confidential Information and CEII.

**3.1.8** ColumbiaGrid, in coordination with the Planning Parties and Affected Persons, will continue to work on EOP Needs not likely to result in Near-Term EOPs as needed and appropriate over time notwithstanding the fact that Draft Need Statements for such EOP Needs need not be prepared and included in the then current Draft System Assessment Report and Draft Need Statements.

**3.1.9** ColumbiaGrid shall present the Draft System Assessment Report and Draft Need Statements to the Board for review and comment.

**3.1.10** ColumbiaGrid will incorporate the comments of the Board on the Draft System Assessment Report and Draft Need Statements into the System Assessment Report and Need Statements.

## 4. Study Teams

ColumbiaGrid shall facilitate and participate in Study Teams. Planning Parties shall, and Affected Persons and Relevant State and Provincial Agencies and other Interested Persons may, actively participate in ColumbiaGrid planning activities through membership in Study Teams.

### 4.1 Scope of Study Team Activities

The general objective of a Study Team shall be, with respect to any Need(s) set out in a Need Statement(s), to collaboratively and timely develop all required elements of a plan of service as may be required to address such Need(s) as provided in this section 4 and sections 5.2, 6.3, 7.3, and 8.3 of this Appendix A. In developing such plan of service, a Study Team will evaluate any of the following proposed solutions to a Need(s): Proposed Projects, Non-Transmission Alternatives, and conceptual solutions that are:

- (i) reflected in the relevant Need Statement(s); or
- (ii) proposed by any Study Team participant to address such Need(s); *provided that* the information, including Project data, needed in order for the Study Team to evaluate such proposed solutions has been provided to ColumbiaGrid.

In performing such evaluation, the Study Team shall assess the ability of any such proposed solution to address a Need(s) considering the factors as described in section 2.3 above in this Appendix A. In addition, the Study Team shall assess whether there is a solution that is a more cost-effective and efficient alternative, applying such factors, to address Need(s). Taking such assessments into account, Study Teams shall attempt to reach agreement on all of the elements, as appropriate, of a plan of service to meet such Need(s).

A Study Team's evaluation may not necessarily result in a plan of service.

The specific objective of a Study Team's discussions varies based upon the underlying Need(s). With respect to an EOP Need, a Study Team shall develop a proposed solution that addresses an EOP Need in a Need Statement. With respect to a Requested Service Project, the Study Team shall develop a proposed solution that serves the request for service in a manner that meets time constraints. With respect to a Single System Project, a Proposed Project's sponsor that is a TOPP may request a Study Team for Project development if such Proposed Project's sponsor also requests an Order 1000 Cost Allocation for such Project. If a TOPP proposing a Single System Project has not requested a Study Team, ColumbiaGrid may convene a Study Team to identify whether there are Material Adverse Impacts resulting from such Project. With respect to a Capacity Increase Project, a Proposed Project's sponsor that is a TOPP may request a Study Team for Project development. If a TOPP proposing a Proposed Capacity Increase Project has not requested a Study Team, any Affected Person may request a Study Team to identify and address Material Adverse Impacts resulting from such Proposed Capacity Increase Project.

## **4.2 Study Teams to Develop Proposed Projects Other than in Response to Needs**

Pursuant to sections 7.1 (Single System Projects) and 8.1 (Capacity Increase Projects) below of this Appendix A, Study Teams may develop Proposed Projects other than to address Needs.

## **4.3 Participation in Study Teams**

Any Planning Party, Affected Person, or Relevant State and Provincial Agency or other Interested Person may participate in a Study Team, with the exception that participation in a Requested Service Project Study Team may be limited due to tariffs or applicable law. TOPP(s) that are potentially materially affected by an EOP Need or a Proposed EOP shall participate in the Study Team relating to such EOP Need or Proposed EOP. With respect to an EOP, the TOPP(s) primarily affected by the EOP Need or a Proposed EOP shall assume primary responsibility for leading and performing necessary analytical work in the Study Team. With respect to a Proposed Requested Service Project, the TOPP(s) receiving a transmission service or interconnection request shall assume primary responsibility for leading and performing necessary analytical work in the Study Team. With respect to a Proposed Single System Project or Proposed Capacity Increase Project for which the Project's sponsor has requested that a Study Team assist in Project development, the Planning Party proposing such Project shall assume primary responsibility for leading and performing necessary analytical work in the Study Team.

At such time that ColumbiaGrid determines that a TOPP that is not involved may be materially affected by the proposed solution being developed, ColumbiaGrid shall so notify such TOPP, and such TOPP shall participate in the Study Team.

ColumbiaGrid shall participate in each Study Team and, as needed, manage and facilitate the Study Team process. ColumbiaGrid shall post drafts of summaries of the progress of the Study Teams, including developing plans of service.

## **4.4 Formation of Study Teams**

Staff shall hold a public meeting, with general notice to Planning Parties and Relevant State and Provincial Agencies and other Interested Persons and specific notice to those TOPPs that ColumbiaGrid anticipates may be affected, for the purpose of reviewing each Need Statement(s) and soliciting participation in a Study Team to address each Need Statement. Staff shall also inform Planning Parties and Interested Parties regarding those Study Teams that have been requested in accordance with this Agreement for purposes other than addressing Needs. Staff shall also consider convening Study Teams that address more than one Need Statement. Staff shall monitor the progress of each Study Team and will, as appropriate, bring Study Teams together in order to resolve differences, gain efficiencies or effectiveness, or develop solutions that meet more than one Need Statement.

## **5. Development of EOPs After Development of Need Statements**

### **5.1 Formation of Study Teams**

Pursuant to section 4.4, ColumbiaGrid shall form Study Team(s) to develop a proposed solution to address an EOP Need(s) in an EOP Need Statement(s). When such Study Teams have been formed, ColumbiaGrid shall give specific notice to those TOPPs that ColumbiaGrid anticipates may be affected.

### **5.2 Elements of an EOP**

An EOP in a Biennial Plan (or Plan Update) shall include the following elements: a plan of service describing the modifications to the RIS to be made, list of Persons to make such modifications, estimated costs, schedule, cost allocation, allocation of transmission capacity increased or maintained by an EOP, and appropriate mitigation of Material Adverse Impacts resulting from such EOP; *provided that* an EOP shall not impose unmitigated Material Adverse Impacts on the RIS.

### **5.3 Non-Transmission Alternatives**

As part of the Study Team process, the Study Team shall as provided in section 2.4 above of this Appendix A evaluate, using factors that include those identified in section 2.3, any Non-Transmission Alternative proposed by a Study Team participant. If the Study Team determines that such alternative has a reasonable degree of development, eliminates or defers the EOP Need(s) being studied by the Study Team, and is reasonable and adequate under such criteria, the Non-Transmission Alternative should be noted in the Plan and, if adopted by the Person on whose Electric System it would be located, included in the assumptions used in future system assessments, subject to subsequent updates on the status of such Non-Transmission Alternative.

### **5.4 Completion of a Proposed EOP**

With respect to a Near-Term EOP, a Proposed EOP is ready for inclusion in a Draft Biennial Plan when all of the following that have actively participated in the Study Team have consented to each element of such Proposed EOP: Persons who would be identified as a Designated Person in section 6.1 of the body of this Agreement and any Person who would bear Material Adverse Impacts from such Proposed EOP if not for the mitigation included in such Proposed EOP.

In the event that such Affected Persons do not reach agreement on any element(s) of a Proposed Near-Term EOP, the Staff shall make a recommendation for any unresolved element(s) of a Proposed Near-Term EOP and may, as the Staff finds appropriate, present fully-developed alternatives for the Board's consideration. The Staff shall inform the Study Team regarding its recommendation and allow the Study Team the opportunity to comment. In the event there is still not agreement among the Affected Persons, the Staff shall include its recommendation in the Draft Plan. In such event, ColumbiaGrid shall, in the absence of an Order 1000 Cost Allocation,

endeavor to make an equitable allocation of the costs of a Staff-Recommended EOP taking into account (i) the causation of the EOP Need giving rise to such EOP or (ii) the delay or elimination during the Planning Horizon of any EOP Need as a result of such EOP. Where there are two affected TOPPs, and one has an EOP Need and the best way to meet that EOP Need is to upgrade facilities on the other TOPP's system, ColumbiaGrid shall allocate costs in a form of Facilities Agreement to the TOPP causing the EOP Need. ColumbiaGrid may also allocate costs to a TOPP in a Facilities Agreement whose EOP Need does not give rise to the Staff-Recommended EOP but that has an EOP Need during the Planning Horizon that is met by such Staff-Recommended EOP; *provided that* ColumbiaGrid shall not allocate costs to such TOPP in an amount that exceeds the cost that would have been incurred by such TOPP had it met its EOP Need with a separate EOP. The Staff shall not allocate costs based upon other potential future system benefits. When the Staff submits the Draft Plan to the Board for approval, the Staff shall identify such elements and shall include a summary analysis of minority positions on any aspect of such Staff-Recommended EOP.

## **6. Requested Service Projects**

### **6.1 Receipt of Transmission Service or Interconnection Request**

Each TOPP shall receive new transmission and interconnection requests in accordance with such TOPP's procedures; *provided that* if ColumbiaGrid offers a functional agreement to provide processing services for transmission or interconnection requests in addition to those provided in this Agreement, eligible TOPPs may sign such agreement. With respect to any request for transmission service or interconnection received by any Planning Party, nothing in this Agreement shall preclude any Planning Party from responding if and as such Planning Party determines is appropriate under its OATT.

### **6.2 Requested Service Assessment; Formation of Study Teams**

When a TOPP has a completed transmission service application, determines that it does not have sufficient capacity to serve such request and reasonably believes that the requested service may impact a transmission system other than that of such TOPP, and the customer has indicated to the TOPP that it wants to pursue further study, such TOPP shall notify ColumbiaGrid that it has a request for a study. ColumbiaGrid shall perform a Requested Service Assessment to determine which transmission systems, including those of non-Planning Parties, are affected.

When a TOPP has received an interconnection request and reasonably believes that such request or a Proposed Project to satisfy the request will affect a transmission system other than that of such TOPP, such TOPP shall notify ColumbiaGrid of such request and such determination. ColumbiaGrid shall perform a Requested Service Assessment to determine which transmission systems, including those of non-Planning Parties, are affected.

In each such instance above in this section 6.2, ColumbiaGrid shall notify those Persons it determines are potentially Affected Persons and convene a Study Team, which should develop

a study agreement in accordance with the TOPP's policies and procedures; *provided that* participation in Study Teams convened for an interconnection request may be limited consistent with such TOPP's OATT and applicable law. ColumbiaGrid, in consultation with Planning Parties and Interested Persons, shall cluster requests for purposes of performing studies when practical. The TOPP with the request shall inform its transmission or interconnection requesting Person regarding the needed study and the estimated costs. If the transmission or interconnection requesting Person is willing to assume the costs of such study and instructs the TOPP to proceed, the Study Team shall develop a solution to provide sufficient capacity to serve the request.

Upon execution of a study agreement, ColumbiaGrid will (subject to any applicable confidentiality requirements under the OATT under which the transmission or interconnection service request was submitted) post the request, information concerning any clustering of the request, the identity of the parties to the study agreement, and the study schedule, and will from time to time update the posting to provide other pertinent information.

### **6.3 Elements of a Requested Service Project**

The Study Team shall collaboratively develop a Proposed Requested Service Project. Each TOPP that receives a transmission service or interconnection request shall retain its obligation under its OATT to perform studies, with participation of the requestor as appropriate in accordance with the TOPP's procedures. A Requested Service Project in a Biennial Plan (or Plan Update) shall include the following elements: a plan of service, estimated costs, transmission capacity allocation, cost and ownership allocation, and schedule.

### **6.4 Completion of a Proposed Requested Service Project**

A Proposed Requested Service Project is ready for inclusion in a Draft Plan when (i) all of the Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team have agreed to each element of such Proposed Requested Service Project, (ii) the Study Team has confirmed that such Project meets the request and has appropriately mitigated Material Adverse Impacts resulting from such Project on any transmission systems, and (iii) the requestor has agreed to pursue the Project. Such Proposed Requested Service Project may be memorialized in a Project agreement prior to its inclusion in a Draft Plan and, in such instance, is being included in such Draft Plan for informational purposes. In the event that such Affected Persons do not reach agreement on a Proposed Requested Service Project in whole or in part within a reasonable time, Staff shall make a recommendation for any unresolved element(s) and may, as the Staff finds appropriate, present fully-developed alternatives for the Board's consideration. The Staff shall inform the Study Team regarding its recommendation and allow the Study Team the opportunity to comment. In the event there is still not agreement amongst the Affected Persons, the Staff will develop a recommended plan of service. If there is an accompanying EOP Need which can be delayed or eliminated by the Staff-Recommended Requested Service Project within the Planning Horizon, ColumbiaGrid shall, in the absence of an Order 1000 Cost Allocation, endeavor to make an equitable allocation of costs of such Staff-Recommended Requested Service Project based upon the affected TOPP's OATT requirements

and the delay or elimination of the EOP Need. ColumbiaGrid may allocate costs in a Facilities Agreement to a TOPP that has an EOP Need during the Planning Horizon that is met by the Staff-Recommended Requested Service Project; *provided that* ColumbiaGrid shall not allocate costs in an amount that exceeds the cost that would have been incurred by such TOPP had it met its EOP Need with a separate potential EOP. The Staff shall not allocate costs based upon other potential future system benefits. A Staff-Recommended Requested Service Project shall not have any unmitigated Material Adverse Impacts resulting from such Project on any transmission systems. The Staff may present more than one Staff-Recommended Requested Service Project for the Board to select from. When the Staff submits the Staff Recommended Project to the Board for approval, the Staff shall identify any unresolved element(s) and shall include a summary analysis of positions advanced by any Affected Persons on such unresolved element(s). If the Staff-Recommended Requested Service Project is approved by the Board and agreed upon by the requestor and all Affected Persons it will be included in the Plan.

## **7. Single System Projects**

### **7.1 Notification of Single System Projects**

Each Planning Party shall advise ColumbiaGrid of any Single System Projects that it is planning on its Transmission System. Single System Projects may be for purposes of addressing a Need(s) or for another purpose.

If the system assessment performed by Staff under section 3 of this Appendix identifies an EOP Need on a single Transmission System, Staff shall inform the subject TOPP of such EOP Need and, if such TOPP concludes that such EOP Need may be resolved on its Transmission System, the TOPP shall inform ColumbiaGrid of such resolution. In such instances, the Staff will include such EOP Need in the Draft System Assessment Report for informational purposes.

### **7.2 Formation of Study Team to Evaluate Material Adverse Impacts**

If any Affected Person requests a Study Team to evaluate Material Adverse Impacts resulting from a potential Single System Project at a “section 3 meeting” to discuss the Draft System Assessment Report and Need Statements and if a Study Team has not otherwise been requested pursuant to section 7.3 below of this Appendix A for such Project, ColumbiaGrid shall convene a Study Team to evaluate Material Adverse Impacts. If there are no unmitigated Material Adverse Impacts, ColumbiaGrid shall include such potential Single System Project in the Plan as a Single System Project for informational purposes and include such Single System Project in future system assessments, subject to subsequent updates on the status of such Project. If there are unmitigated Material Adverse Impacts, such potential Project is not a Single System Project.

### **7.3 Formation of Study Team for Project Development**

If a TOPP requests in accordance with section 10 of this Appendix A an Order 1000 Cost Allocation for a Proposed Single System Project on its Transmission System, such TOPP must

develop such Project through a ColumbiaGrid Study Team. Upon receipt of such a request, ColumbiaGrid will convene a Study Team for development of such Project.

A Single System Project in a Biennial Plan (or Plan Update) developed by a Study Team convened for development of such Project shall include the following elements: a plan of service, estimated costs, cost allocation, if any, and schedule.

In the event that Affected Persons do not reach agreement on any element(s) of such Proposed Single System Project, and the Sponsor has not withdrawn its request for an Order 1000 Cost Allocation, the Staff shall make a recommendation for any unresolved element(s) of such Project and may, as the Staff finds appropriate, present fully-developed alternatives for the Board's consideration. The Staff shall inform the Study Team regarding its recommendation and allow the Study Team the opportunity to comment. In the event there is still not agreement among the Affected Persons, the Staff shall include its recommendation in the Draft Plan.

## **8. Capacity Increase Projects**

### **8.1 Notification of Capacity Increase Projects**

Each Planning Party shall advise ColumbiaGrid of any Capacity Increase Projects that it is planning or anticipates participating in on the RIS. Capacity Increase Projects may be for purposes of addressing a Need(s) or for another purpose.

### **8.2 Formation of Study Team**

**8.2.1 Formation of Study Team for Project Development.** If the Proposed Project's sponsor requests a Study Team for Project development, ColumbiaGrid will convene such Study Team for such purpose. In the event that Affected Persons do not reach agreement on any element(s) of a Proposed Capacity Increase Project developed by a Study Team convened for Project development of such Project, and the Project's sponsor(s) so requests, the Staff shall make a recommendation for any unresolved element(s) of such Project and may, as the Staff finds appropriate, present fully-developed alternatives for the Board's consideration. The Staff shall inform the Study Team regarding its recommendation and allow the Study Team the opportunity to comment. In the event there is still not agreement among the Affected Persons, the Staff shall include its recommendation in the Draft Plan.

**8.2.2 Formation of Study Team for Evaluation of Material Adverse Impacts.** If any Affected Person requests a Study Team to evaluate Material Adverse Impacts resulting from a Proposed Capacity Increase Project for which a Study Team has not otherwise been requested pursuant to section 8.2.1, ColumbiaGrid shall convene a Study Team to evaluate Material Adverse Impacts.

### **8.3 Elements of Capacity Increase Project**

A Capacity Increase Project in a Biennial Plan (or Plan Update) shall include the following elements: plan of service, estimated costs, the expected amount of transmission capacity added for each new or existing path, reasons for the Project, alternatives considered using the solution evaluation factors described in section 2.3, the Persons who are responsible for the costs and construction of the Project, the owners and operators of the added facilities, schedule, including estimated completion date, transmission rights allocation, Material Adverse Impacts, if any, and any mitigation of Material Adverse Impacts; *provided that* any unmitigated Material Adverse Impacts shall be subject to resolution in the WECC regional planning or path rating process.

#### **8.4 Request for Cost Allocation for Proposed Capacity Increase Project**

In the absence of an Order 1000 Cost Allocation, a TOPP may request a cost allocation recommendation from ColumbiaGrid on a Proposed Capacity Increase Project if the related Study Team is unable to come to voluntary agreement on the cost allocation. This recommendation is non-binding but can be used by the Study Teams to facilitate agreement on cost allocation. If ColumbiaGrid is otherwise unable to arrive at a non-binding recommendation for cost allocation as provided in this section, ColumbiaGrid's non-binding recommendation shall be to allocate 100 percent of the costs of such Proposed Capacity Increase Project among the Persons participating in such Project in proportion to the expected amount of added transmission capacity to be received by each such Person from such Project.

### **9. Expanded Scope Projects**

#### **9.1 Assessing Interest in Expanding the Scope of a Proposed Project**

Prior to including any Proposed Project in a Draft Biennial Plan or Draft Plan Update, the Staff shall determine, in an open process, whether there is interest in expanding the scope of such Proposed Project; *provided that* absent agreement of the TOPP(s) whose Transmission System(s) has a projected EOP Need, consideration of the request to expand the scope of a Proposed EOP may not unreasonably delay Project development beyond the point where there is sufficient lead time for the original Project to be completed to meet such Need or as otherwise required.

#### **9.2 Formation of Study Team**

If there is interest, Staff shall establish a Study Team to evaluate and develop the expansion. Those Planning Parties or Interested Persons who are interested in becoming Project sponsors shall assume primary responsibility for leading and performing necessary analytical work, and shall be responsible for the study costs of evaluating the expansion.

#### **9.3 Completion of a Proposed Expanded Scope Project**

The Staff shall assist the Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team in resolving transmission capacity rights issues if such

Persons are unable to reach agreement. A Proposed Expanded Scope Project shall be included in a Plan (or Draft Biennial Plan or Draft Plan Update) in lieu of the Project without expansion only when (i) the sponsors of the expansion have agreed to fund the incremental cost of such Proposed Expanded Scope Project, (ii) each sponsor of the Project as originally configured would receive equivalent or better service (including meeting the applicable Need(s)) at no greater cost than it would have paid for the original Project, and (iii) such Proposed Expanded Scope Project would not have unmitigated Material Adverse Impacts.

#### **9.4 Cost Allocation Recommendations for Expanded Scope Project and Project with Multiple Classifications**

An Expanded Scope Project may be a combination of one or more EOPs, Requested Service Projects, Capacity Increase Projects, and Single System Projects. The provisions governing ColumbiaGrid cost allocation recommendations for such types of Projects will be applied to the various portions of any Expanded Scope Project and Projects with Multiple Classifications as applicable.

### **10. Order 1000 Projects and Cost Allocation**

#### **10.1 Qualification as an Order 1000 Project**

A Proposed Project may qualify for and receive an Order 1000 Cost Allocation only if (i) such Proposed Project's Order 1000 Sponsor(s) makes a timely request in accordance with section 10.1.1 below that such Proposed Project be selected as an Order 1000 Project, (ii) such Proposed Project's Order 1000 Sponsor(s) meets the requirements set out in section 10.1.2.1 below, and (iii) such Proposed Project is selected as an Order 1000 Project in accordance with section 10.1.2 below.

**10.1.1 Timely Request for Selection as Order 1000 Project.** Not later than 60 days after the issuance of the final Study Team report including the plan of service to address a Need(s), an Order 1000 Sponsor of a Proposed Project that is in such plan of service may request Order 1000 Cost Allocation for such Proposed Project; *provided that* with respect to a Proposed Single System Project, such Project's Order 1000 Sponsor must request Order 1000 Cost Allocation at the time such sponsor requests a Study Team for Project development in accordance with section 7.3 of this Appendix A. Any request for an Order 1000 Cost Allocation shall be submitted in writing to ColumbiaGrid. ColumbiaGrid shall post all such requests on its Website, and distribute copies of such requests to all Planning Parties and participants in the Study Team for the Proposed Project for which Order 1000 Cost Allocation has been requested. Any request submitted after the applicable foregoing deadline is not timely and will not result in consideration of a Proposed Project for selection as an Order 1000 Project for the plan then under development.

**10.1.2 Selection as Order 1000 Project.** No later than 30 days after the later of (i) the issuance of the final Study Team report with respect to a Proposed Project, including the plan of service to address the applicable Need(s) and (ii) the receipt by ColumbiaGrid of a timely

request pursuant to section 10.1.1 above for Order 1000 Cost Allocation for such Proposed Project, the Staff shall make a preliminary determination whether such Project qualifies as an Order 1000 Project pursuant to section 10.1.2.1 below. ColumbiaGrid shall document Staff's preliminary determination in writing, post such determination on its Website, distribute such determination to Planning Parties and participants in the Study Team for the Proposed Project for which Order 1000 Cost Allocation has been requested, and communicate to its Interested Persons distribution list that such a determination has been posted on its Website. Planning Parties and Interested Persons shall have 30 days to provide written comments on the Staff's preliminary determination. After considering such written comments and modifying its preliminary determination as the Staff finds appropriate, the Staff shall present its determination to the Board for review and comment.

The Order 1000 Sponsor(s) that requested Order 1000 Cost Allocation for a Proposed Project in accordance with this section 10 may withdraw its request for such Order 1000 Cost Allocation at any time; *provided that* after ColumbiaGrid's release of a draft Preliminary Cost Allocation Report for such Project, ColumbiaGrid shall not make a Non-Order 1000 Cost Allocation with respect to such Project. Such request may be withdrawn by submitting notice of withdrawal of such request to ColumbiaGrid in writing. In the event that more than one Order 1000 Sponsor has requested Order 1000 Cost Allocation for such Project, and ColumbiaGrid has determined that it is an Order 1000 Project in accordance with this section 10.1.2, so long as at least one such sponsor's request has not been withdrawn, ColumbiaGrid shall apply the Order 1000 Cost Allocation Methodology to such Order 1000 Project.

If all Order 1000 Sponsors that requested an Order 1000 Cost Allocation for a Proposed Project timely withdraw such requests in accordance with this section, the Proposed Project shall not be identified as an Order 1000 Project in the Biennial Plan. In such an instance, however, if such Project would receive a Non-Order 1000 Cost Allocation under this Agreement had an Order 1000 Sponsor not requested Order 1000 Cost Allocation, ColumbiaGrid shall make a Non-Order 1000 Cost Allocation in accordance with this Agreement.

**10.1.2.1 Order 1000 Project Selection Criteria.** As part of the open, transparent, and collaborative development of a plan of service to address Need(s) pursuant to section 4 of this Appendix A, the Study Team or ColumbiaGrid, as appropriate, shall evaluate and determine whether the following criteria are met:

- (i) the Order 1000 Sponsor's(s') proposed Order 1000 Project:
  - a. meets such Need(s);
  - b. is confirmed by the Study Team or ColumbiaGrid, as appropriate, to be the more cost effective and efficient solution to meet such Need(s);
  - c. has been developed by a Study Team and been included in the related plan of service; and

d. Order 1000 Cost Allocation for such Project has been timely requested (and such request has not been withdrawn by all Order 1000 Sponsors of such Project) pursuant to section 10.1.1 of this Appendix A;

and

(ii) the Order 1000 Sponsor(s):

a. is found by ColumbiaGrid to meet the Order 1000 Sponsor qualifications set out below in section 10.1.2.2 of this Appendix A; *provided that* if ColumbiaGrid finds that the Order 1000 Sponsor(s) does not meet such qualifications, ColumbiaGrid shall give to such Order 1000 Sponsor(s) written notice describing the deficiencies, and such Order 1000 Sponsor(s) shall have 30 days after receipt of such notice to cure such deficiencies; and

b. has submitted required information on a timely basis, including Project data and Project development schedule, indicating required steps, such as granting of state, federal, and local approvals necessary to develop and construct the Proposed Project so as to timely meet the Need(s); *provided that* data relating to Order 1000 Sponsor qualifications must be submitted at or before the time such Order 1000 Sponsor(s) requests Order 1000 Cost Allocation.

If the Order 1000 Sponsor(s) and its Proposed Project meet the above-listed criteria, ColumbiaGrid shall select the Proposed Project as an Order 1000 Project. To the extent the Order 1000 Sponsor(s) and its Proposed Project do not meet the criteria in this section 10.1.2, ColumbiaGrid shall not select the Proposed Project as an Order 1000 Project and shall document in the Draft Plan and Biennial Plan an explanation of why such Project was not selected as an Order 1000 Project.

**10.1.2.2 Order 1000 Sponsor Qualifications.** In determining eligibility for selection as an Order 1000 Project pursuant to this section, ColumbiaGrid shall review the qualifications of any Order 1000 Sponsor to determine whether such Order 1000 Sponsor is technically, financially, and otherwise capable of:

(i) developing, licensing, and constructing the Proposed Project for which Order 1000 Cost Allocation has been requested pursuant to this section 10 in a timely and competent manner; and

(ii) owning, operating, and maintaining the proposed Order 1000 Project facilities consistent with Good Utility Practice and applicable reliability criteria for the life of such proposed Order 1000 Project.

Such Order 1000 Sponsor must be a TOPP at the time Order 1000 Cost Allocation is requested in accordance with this section 10 for the proposed Order 1000 Project. The following factors will be considered in determining such Order 1000 Sponsor's eligibility:

- a. the current and expected capabilities of the Order 1000 Sponsor to finance, seek licenses, plan, design, develop, and construct the proposed Order 1000 Project on a timely basis consistent with the proposed schedule and to own, reliably operate, and maintain such Project for the life of such Project;
- b. the financial resources of the Order 1000 Sponsor;
- c. demonstrated capability of the Order 1000 Sponsor to adhere to construction, maintenance, and operating practices consistent with Good Utility Practices with respect to facilities such as the proposed Order 1000 Project;
- d. demonstrated ability of the Order 1000 Sponsor to assume liability for major losses resulting from the failure of or damage to facilities that may be associated with the proposed Order 1000 Project; and
- e. demonstrated cost containment capability and other advantages or disadvantages the Order 1000 Sponsor may have in developing and constructing the proposed Order 1000 Project.

## **10.2 Opportunity for Voluntary Implementation of Plan of Service**

After ColumbiaGrid has selected a Proposed Project as an Order 1000 Project in accordance with section 10.1.2 above, ColumbiaGrid shall allow six full calendar months and such additional time, if any, as requested by all Order 1000 Sponsors and other Affected Parties with respect to such Project for the Order 1000 Sponsors and other Affected Parties to reach agreement on Project implementation, including responsibility for the funding of such Project. If, after six full calendar months and such additional time, if any, as has been requested by all Order 1000 Sponsors and other Affected Parties with respect to such Project has elapsed, such an agreement has not been reached, ColumbiaGrid shall apply the Order 1000 Cost Allocation Methodology as set forth in section 10.3 below to such Project.

## **10.3 Application of Order 1000 Cost Allocation Methodology**

Unless the Order 1000 Sponsor(s) requesting Order 1000 Cost Allocation for such Order 1000 Project has timely withdrawn its request for Order 1000 Cost Allocation or agreement has been reached on Project implementation pursuant to section 10.2 above of this Appendix A, ColumbiaGrid shall apply the Order 1000 Cost Allocation Methodology to the Order 1000 Project in accordance with the following.

**10.3.1 Order 1000 Project Costs.** ColumbiaGrid shall project the costs of such Order 1000 Project. Such projection may be based on information provided by the Order 1000

Sponsor(s), the Study Team, and ColumbiaGrid. In developing such projection, ColumbiaGrid may also seek the input of others, including third-party experts. ColumbiaGrid shall document the basis for its projection and make supporting information available, to the extent practicable, consistent with any applicable CEII and confidentiality requirements.

**10.3.2 Order 1000 Benefits and Beneficiaries.** ColumbiaGrid shall identify any Order 1000 Beneficiaries and project the Order 1000 Benefits of each such beneficiary projected as a direct result of such Order 1000 Project.

**10.3.2.1 Analytical Tools.** Analytical tools used shall, as appropriate, include:

- (i) power flow and stability studies to project the extent, if any, to which any TOPP would avoid costs due to elimination or deferral of planned transmission facility additions;
- (ii) power flow and stability studies to project changes in transfer capability; and
- (iii) production cost studies to project the estimated usage of any such changes in transfer capability.

Consideration of existing TOPP transmission or interconnection service queue requests may be included in projecting the estimated usage of such changes in transfer capability.

**10.3.2.2 Calculation of Order 1000 Benefits.** For purposes of calculating Order 1000 Benefits under item (i)a. of section 1.37 of the body of this Agreement,

- (i) the avoided costs of deferred transmission facilities will be the borrowing costs (*i.e.*, interest costs) projected to be avoided during the Planning Horizon as a result of the deferral of the capital investment of such deferred facilities (rather than the capital costs themselves of such facilities) plus the incremental operations and maintenance costs of such deferred facilities projected to be avoided during the Planning Horizon; and
- (ii) the avoided costs of eliminated transmission facilities during the Planning Horizon will be the portion of the projected avoided depreciation expense of such eliminated facilities that falls within the Planning Horizon plus the projected incremental operation and maintenance costs of such eliminated facilities avoided during the Planning Horizon (such projected avoided depreciation expense shall be determined using straight-line depreciation of the projected capital costs of such eliminated facilities over their depreciable lives).

For purposes of calculating Order 1000 Benefits under item (i)b.1. of section 1.37 of the body of this Agreement, the projected cost that the TOPP(s) would, but for the Order 1000 Project, have otherwise incurred shall be:

a. the portion, falling within the Planning Horizon, of the projected depreciation expense of the transmission facilities that, in the absence of the Order 1000 Project, would have been incurred by such TOPP(s) to achieve an increase in capacity on its Transmission System(s) equivalent to that resulting from such Order 1000 Project (such projected depreciation expense shall be determined using straight-line depreciation of the projected capital costs of such facilities over their depreciable lives); plus

b. the projected incremental operation and maintenance costs of such transmission facilities avoided by such TOPP(s) during the Planning Horizon as a direct result of the Order 1000 Project.

For purposes of section 10.3.3 below of this Appendix A, the aggregate Order 1000 Benefits of the Order 1000 Sponsor(s) shall be equal to the projected capital costs of the Order 1000 Project.

An increase in capacity of a Transmission System of a TOPP that results from any Order 1000 Project shall be deemed to be owned by such TOPP unless otherwise agreed to in writing by such TOPP.

**10.3.3 Cost Allocation.** For purposes of the Order 1000 Cost Allocation for an Order 1000 Project, ColumbiaGrid shall allocate the costs of such Order 1000 Project as follows.

**10.3.3.1** ColumbiaGrid shall allocate to each Order 1000 Beneficiary that is not an Order 1000 Sponsor an amount of the projected costs of such Order 1000 Project equal to the lesser of:

(i) such beneficiary's Order 1000 Benefits; or

(ii) the product of the projected costs of such Order 1000 Project multiplied by a fraction, the numerator of which is equal to such beneficiary's Order 1000 Benefits and the denominator of which is equal to the sum of the following: (1) the sum of the Order 1000 Benefits of all Order 1000 Beneficiaries of such Project that are not an Order 1000 Sponsor of such Project, plus (2) the aggregate Order 1000 Benefits of the Order 1000 Sponsor(s).

Such allocation to each Order 1000 Beneficiary that is not an Order 1000 Sponsor may be algebraically represented as follows:

|  |   |   |
|--|---|---|
| Order 1000 Cost Allocation to each Order 1000 Beneficiary (except for Order 1000 Sponsor(s)) | = | The lesser of:<br>(1) Such Order 1000 Beneficiary's Order 1000 Benefits, or<br>(2) the product of the projected costs of the Order 1000 Project x (such Order 1000 Beneficiary's Order 1000 Benefits/((sum of the Order 1000 Benefits of all Order 1000 Beneficiaries that are not an Order 1000 Sponsor of such Project) + (the aggregate Order 1000 Benefits of the Order 1000 Sponsor(s))) |
|--|---|---|

**10.3.3.2** ColumbiaGrid shall allocate to the Order 1000 Sponsor(s) in aggregate an amount of the projected costs of such Order 1000 Project equal to the amount, if any, by which the projected costs of such Order 1000 Project exceed the sum of the projected costs of such Order 1000 Project allocated pursuant to section 10.3.3.1 above to all Order 1000 Beneficiary(ies) that are not an Order 1000 Sponsor.

Such allocation to Order 1000 Beneficiary(ies) that are Order 1000 Sponsor(s) may be algebraically represented as follows:

|   |   |   |
|---|---|---|
| The sum of the Order 1000 Cost Allocation(s) to the Order 1000 Beneficiary(ies) that is an Order 1000 Sponsor | = | The amount, if any, by which: (1) the projected costs of such Order 1000 Project exceed (2) the sum of the projected costs of such Order 1000 Project allocated to all Order 1000 Beneficiary(ies) that are not an Order 1000 Sponsor |
|---|---|---|

#### **10.4 Preliminary Order 1000 Cost Allocation Report**

The Staff shall document in a draft Preliminary Order 1000 Cost Allocation Report the selection of any Proposed Project as an Order 1000 Project and the results of Staff's application of the Order 1000 Cost Allocation Methodology to such Project.

Subject to any applicable provisions for protection of Confidential Information and CEII, the Staff shall share its draft Preliminary Order 1000 Cost Allocation Report with any TOPPs that have been identified in such draft report as Order 1000 Beneficiaries, the Study Team that developed such Proposed Project, and any Interested Person who requests such report, and shall provide an opportunity for written comment for a period of 30 days following the issuance of such draft report. The Staff shall evaluate any written comments and reflect them in a Preliminary Order 1000 Cost Allocation Report as follows:

(i) if the Staff agrees with any revisions proposed by a potential Order 1000 Beneficiary, Study Team participant, or Interested Person, the Staff shall reflect such revisions in the Preliminary Order 1000 Cost Allocation Report accordingly; and

(ii) if the Staff disagrees with any revisions proposed by a potential Order 1000 Beneficiary, Study Team participant, or Interested Person, the Staff shall summarize the proposed revisions and document the reason why the Staff did not accept the proposed revisions in the Preliminary Order 1000 Cost Allocation Report.

After the Staff has prepared its Preliminary Order 1000 Cost Allocation Report with respect to an Order 1000 Project, ColumbiaGrid shall allow additional time, if requested by one or more Affected Persons with respect to such Project, for such Affected Persons to reach agreement on Project implementation, including responsibility for the funding of such Project. If after such additional time, if any, such an agreement has not been reached, the Staff shall include such Preliminary Order 1000 Cost Allocation Report in the Draft Plan.

### **10.5 Board Approval of Order 1000 Cost Allocation**

The Board shall review the Preliminary Order 1000 Cost Allocation Report, including the selection of a Proposed Project as an Order 1000 Project, as part of its adoption of the Biennial Plan and, as set out in section 11.2 below of this Appendix A, the Board shall review the Draft Plan in an open, public process. If such Preliminary Order 1000 Cost Allocation Report is acceptable in its entirety, the Board shall approve and finalize such report as part of its adoption of the Biennial Plan, and the approved and finalized Order 1000 Cost Allocation Report shall be included in such Biennial Plan. Any report not approved by the Board may be remanded to the Staff which may, in cooperation with the Study Team, revise the Preliminary Order 1000 Cost Allocation Report and resubmit it to the Board; *provided that* the Board may modify a Preliminary Cost Allocation Report to the extent such modification is supported by the record.

## **11. Process for Adoption of Plans**

### **11.1 Draft Plan**

**11.1.1 Contents of Draft Plan.** The Staff shall prepare a Draft Plan based upon the ColumbiaGrid transmission planning process that contains the following Projects and information.

- (i) Recommended Projects
  - a. EOPs
    - 1. Recommended Near-Term EOPs
      - A. Recommended Near-Term EOPs, including an analysis of how such Projects meet their respective EOP Needs and

a verification that each EOP does not result in unmitigated Material Adverse Impacts on any transmission system; and

B. Staff-Recommended Near-Term EOPs, including an analysis of how such Projects meet their respective EOP Needs, a verification that each such EOP does not result in unmitigated Material Adverse Impacts on any transmission system, and an analysis supporting any other Staff-recommended elements, such as cost or capacity allocation; *provided that* Staff may only submit recommendations for Near-Term EOPs for which the Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team have been unable to reach agreement in whole or in part; *provided further that* the Staff shall also provide for informational purposes the alternative opinions developed during the study process;

2. Recommended EOPs that the Affected Parties agree are ready for implementation, including an analysis of how such Projects meet their underlying EOP Needs and a verification that each such Project does not result in Material Adverse Impacts on any transmission system;

3. A list of alternative plans of service for EOPs that were identified and considered in the ColumbiaGrid transmission planning process for possible inclusion in the Draft Plan; and

4. A list of Non-Transmission Alternatives that resulted in a deferral or elimination of an EOP Need;

b. Recommended Requested Service Projects

1. Recommended Requested Service Projects, including an analysis of how such Projects meet the underlying transmission service and interconnection requests and a verification that each such Project does not result in any unmitigated Material Adverse Impacts on any transmission system;

2. Staff-Recommended Requested Transmission Projects, including an analysis of how such Projects meet the underlying transmission service or interconnection requests and a verification that each such Project does not result in any unmitigated Material Adverse Impacts on any transmission system, and an analysis supporting any other Staff-recommended elements;

3. A list of Non-Transmission Alternatives, if any, that could result in a deferral or elimination of a Requested Service Project; and

4. A list of alternative plans of service for Requested Service Projects that were identified and considered in the ColumbiaGrid transmission planning process for possible inclusion in the Draft Plan;

c. Capacity Increase Projects

1. Recommended Capacity Increase Projects, including an analysis of how any such Project that is proposed to address a Need(s) addresses such Need and a verification that each Recommended Capacity Increase Project does not result in any unmitigated Material Adverse Impacts on any transmission system;

2. Staff-Recommended Capacity Increase Projects, including an analysis of how any such Project that is proposed to address a Need(s) addresses such Need and a verification that each Staff-Recommended Capacity Increase Project does not result in any unmitigated Material Adverse Impacts on any transmission system, and an analysis supporting any other Staff-recommended elements; *provided further that* the Staff shall also provide for informational purposes the alternative solutions, opinions, and plans of service to such Capacity Increase Projects that were identified and considered in the ColumbiaGrid transmission planning process for possible inclusion in the Draft Plan;

3. Capacity Increase Projects submitted for inclusion in the Draft Plan for informational purposes;

4. An identification of unmitigated Material Adverse Impacts on any transmission system;

5. A list of Non-Transmission Alternatives, if any, that could result in a deferral or elimination of a Capacity Increase Project; and

6. A list of alternative plans of service, if any, that were identified and considered in the ColumbiaGrid transmission planning process for possible inclusion in the Draft Plan;

d. Single System Projects for which the Order 1000 Sponsor has requested a Study Team for Project development;

1. Recommended Single System Projects, including an analysis of how any such Project that is proposed to address a Need(s) addresses such Need and a verification that each Recommended Single

System Project does not result in any unmitigated Material Adverse Impacts on any transmission system;

2. Staff-Recommended Single System Projects, including an analysis of how any such Project that is proposed to address a Need(s) addresses such Need and a verification that each Staff-Recommended Single System Project does not result in any unmitigated Material Adverse Impacts on any transmission system, and an analysis supporting any other Staff-recommended elements; *provided further that* the Staff shall also provide for informational purposes the alternative solutions, opinions, and plans of service to such Single System Projects that were identified and considered in the ColumbiaGrid transmission planning process for possible inclusion in the Draft Plan; and

3. A list of Non-Transmission Alternatives, if any, that could result in a deferral or elimination of a Single System Project;

e. Single System Projects submitted for inclusion in the Draft Plan for informational purposes; and

f. Expanded Scope Projects; including a verification that each such Project does not result in any unmitigated Material Adverse Impacts on any transmission system.

(ii) Order 1000 Projects

a. A list of Order 1000 Projects;

b. A list of Proposed Project(s) for which Order 1000 Cost Allocation has been requested in accordance with section 10 of this Appendix but which did not qualify and the deficiencies that precluded its selection as an Order 1000 Project; and

c. Preliminary Order 1000 Cost Allocation Reports for each Order 1000 Project;

(iii) System Assessment Report and Need Statements;

(iv) A list of Study Teams and their participants;

(v) A review of the current status of all pending Order 1000 Projects that received an Order 1000 Cost Allocation in a prior Plan or Plan Update; and

(vi) Other information that the Board may find helpful in making its decision.

In preparing the Draft Plan, the Staff shall solicit and consider the comments of Interested Persons, Affected Persons, and Planning Parties. The Staff shall post a preliminary Draft Plan on the Website and obtain stakeholder comment prior to finalizing the Draft Plan and may include a summary of the comments received; *provided that* the Staff shall redact Confidential Information and CEII from the Draft Plan that is made public. The Staff shall include such redacted information in the Draft Plan submitted to the Board. The Staff shall include the documentation as the Staff finds appropriate for purposes of Board review and action; *provided that* the documentation should be sufficient for subsequent review in an appropriate forum. The Draft Plan shall clearly identify which Projects (i) must be commenced in the upcoming Planning Cycle in order to have sufficient lead time for implementation or are ready for implementation, (ii) have planning underway but do not require commencement in the upcoming Planning Cycle yet are ready for implementation, or (iii) have planning at a conceptual or preliminary stage.

**11.1.2 Timing.** The Staff shall submit the Draft Plan for Board adoption at a time interval no greater than every two years.

## **11.2 Review Process**

The Board shall review the Draft Plan in an open, public process. In doing so, the Board shall make available the draft Plan, study reports and electronic data files, subject to appropriate protection of Confidential Information and CEII to all Planning Parties and Interested Persons and provide the public an opportunity to supply information and provide written or oral comments to the Board. The Board may adopt additional procedures to carry out its review process.

## **11.3 Basis for Plan Adoption**

The Board shall base its review and adoption of the Plan on the technical merits of the Draft Plan, the consistency of the Projects listed in the Draft Plan with this Agreement, and considering comments and information provided during the review process.

## **11.4 Plan Adoption**

The Board shall review and take action regarding the Draft Plan as follows:

### **11.4.1 Recommended Projects**

#### **11.4.1.1 EOPs**

**11.4.1.1.1 Recommended Near-Term EOPs and Recommended EOPs.** The Board shall review and may approve the following with respect to each Recommended EOP: the Study Team's determination that (i) it meets its underlying EOP Need Statement(s) and (ii) does not impose unmitigated Material Adverse Impacts. Those elements that are not approved by the Board shall be remanded to the Staff and Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team for further consideration and analysis and development.

**11.4.1.1.2 Staff-Recommended EOPs.** The Board shall review and may approve the following with respect to each Staff-Recommended EOP: the Staff determination that it meets its underlying Need Statement(s), its plan of service, sponsorship, schedule, cost allocation, transmission rights allocation, and mitigation of Material Adverse Impacts. The Board shall review the documentation relating to any other alternative that was considered by the Study Team and the reason why the Staff did not selected any such alternative. Those elements that are not approved by the Board shall be remanded to the Staff which may, in cooperation with the Study Team, revise the recommendation and resubmit it to the Board; *provided that* the Board may modify a recommended cost allocation or transmission capacity allocation to the extent such modification is supported by the record.

#### **11.4.1.2 Requested Service Projects**

**11.4.1.2.1 Recommended Requested Service Projects.** The Board shall review and may approve the Study Team’s determination that each Recommended Requested Service Project (i) serves its underlying transmission service or interconnection request and (ii) does not result in any unmitigated Material Adverse Impacts on any transmission system; *provided that* no Recommended Requested Service Project shall be included in any Plan unless the requestor and all Affected Persons agree upon such Requested Service Project. If the Board determines that there are unmitigated Material Adverse Impacts, such Project shall be remanded to the Staff and Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team for further analysis.

**11.4.1.2.2 Staff-Recommended Requested Service Projects.** The Board shall review and may approve the Staff’s determination that each Staff-Recommended Requested Service Project serves the underlying transmission service or interconnection request, the plan of service, transmission capacity allocation, sponsorship, and mitigation of Material Adverse Impacts resulting from such Project on any transmission system; *provided that* no Staff-Recommended Requested Service Project shall be included in any Plan unless the requestor and all Affected Persons agree upon such Requested Service Project. The Board shall review the documentation relating to any other alternative that was considered by the Study Team and the reason why the Staff did not select any such alternative. Those elements that are not approved by the Board shall be remanded to the Staff which may, in cooperation with the Study Team, revise the recommendation and resubmit it to the Board; *provided that* the Board may modify a recommended cost allocation or transmission capacity allocation to the extent such modification is supported by the record.

**11.4.1.3 Capacity Increase Projects.** With respect to Capacity Increase Projects for which the Project’s sponsor has requested a Study Team for Project development:

- (i) with respect to Recommended Capacity Increase Projects, the Board shall review and may approve the Study Team’s determination that such Capacity Increase Project (a) meets its underlying Need Statement(s) and (b) does not result in any unmitigated Material Adverse Impacts on any transmission system. If the Board determines that there are unmitigated Material Adverse Impacts resulting from such a

Project on any transmission system, the Board shall note such Material Adverse Impacts in the Plan and such Project shall be remanded to the Staff and Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team for further analysis or defer resolution of such Material Adverse Impacts to the WECC regional planning or path rating process; and

(ii) with respect to Staff-Recommended Capacity Increase Projects, the Board shall review and may approve the following with respect to each Staff-Recommended Capacity Increase Project: the Staff determination that it meets its underlying Need Statement(s), its plan of service, sponsorship, schedule, cost allocation, transmission rights allocation, and mitigation of Material Adverse Impacts. The Board shall review the documentation relating to any other alternative that was considered by the Study Team and the reason why the Staff did not selected any such alternative. Those elements that are not approved by the Board shall be remanded to the Staff which may, in cooperation with the Study Team, revise the recommendation and resubmit it to the Board; *provided that* the Board may modify a recommended cost allocation or transmission capacity allocation to the extent such modification is supported by the record.

**11.4.1.4 Single System Projects.** With respect to a Single System Project for which the Order 1000 Sponsor has requested Order 1000 Cost Allocation and a Study Team for Project development:

(i) with respect to Recommended Single System Projects, the Board shall review and may approve the Study Team's determination that such Single System Project (i) meets its underlying Need Statement(s) and (ii) does not impose unmitigated Material Adverse Impacts; and

(ii) with respect to Staff-Recommended Single System Projects, the Board shall review and may approve the following with respect to each Staff-Recommended Single System Project: the Staff determination that it meets its underlying Need Statement(s), its plan of service, sponsorship, schedule, cost allocation, transmission rights allocation, and mitigation of Material Adverse Impacts. The Board shall review the documentation relating to any other alternative that was considered by the Study Team and the reason why the Staff did not selected any such alternative. Those elements that are not approved by the Board shall be remanded to the Staff which may, in cooperation with the Study Team, revise the recommendation and resubmit it to the Board; *provided that* the Board may modify a recommended cost allocation or transmission capacity allocation to the extent such modification is supported by the record.

**11.4.1.5 Expanded Scope Projects.** The Board shall review and may approve the Study Team's determination that there are no unmitigated Material Adverse Impacts resulting from each such Expanded Scope Project on any transmission system and, for Expanded Scope Projects that have an underlying EOP or Requested Service Project, the underlying EOP

Need or request is still met with an equivalent or better service at no greater cost than it would have paid for the underlying Project. The Board shall not disapprove or modify Project elements associated with the Project expansion (developed by the Project's sponsor(s) or a Study Team). If the Board determines that there are unmitigated Material Adverse Impacts resulting from such a Project on any transmission system or that the underlying EOP Need or request is not met with an equivalent or better service at no greater cost than it would have paid for the underlying Project, the Board shall remand such Project to the Staff and Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team for further analysis.

**11.4.1.6 Order 1000 Information.** The Board shall include in the Biennial Plan:

- (i) a list of Order 1000 Projects;
- (ii) an Order 1000 Cost Allocation Report for each Order 1000 Project proposed in the current planning cycle; and
- (iii) a determination as to whether each Project that received an Order 1000 Cost Allocation in a prior Plan or Plan Update continues to be expected to meet the underlying Need(s) in a timely manner, and, if not, whether such Project should be removed from the Plan, resulting in loss of its Order 1000 Project status.

**11.4.2 Other Information Included in the Draft Plan.** The Board shall include in the Biennial Plan for informational purposes all of the other content in the Draft Biennial Plan that was provided for informational purposes unless the Board determines it has good cause not to include such content.

**11.4.3 Remands.** In the event that the Board remands an item to the Staff and a Study Team for further analysis and discussion, the Board shall identify specific questions or concerns to be answered or further researched by the Staff and Affected Persons identified by ColumbiaGrid that have actively participated in a related Study Team before the Board approves or confirms the matter that has been remanded. If the Board determines that a transmission alternative submitted in the public review process or that a transmission alternative to a Staff-Recommended Project is potentially preferable to the proposed Staff-Recommended Project, the Board may remand such alternative to the Staff, Planning Parties, and Interested Persons for further analysis and discussion. The Board and Staff shall attempt to minimize the total number of times a Project is remanded.

**11.4.4 Reconsideration Process.** The Board shall develop and make available a reconsideration process that provides Persons who are materially impacted by such decision and did participate in any underlying Study Team to request within ten days that the Board reconsider a specific decision within the Board's approval. If reconsideration of a Board decision is sought by any such Person, ColumbiaGrid shall promptly convene a meeting, chaired by the ColumbiaGrid President, to which it invites the chief executive officer or equivalent executive of all Affected Persons to determine whether they can reach agreement on the disputed

decision. If agreement is not reached, the Board shall pursue the reconsideration process. The reconsideration process will provide for input from all involved Persons (including Planning Parties) and Staff, and the Board will make its reconsidered decision known within 90 days from the date of the request. If, upon reconsideration, the Board modifies its decision, the modification shall also be subject to a petition for reconsideration.

**11.4.5 Post-Board Approval Project Modifications.** In the event that a Project's sponsor(s) discover during siting and environmental review processes that modifications are needed to an EOP in order for such EOP to receive needed regulatory approval or in order to implement such EOP, the Staff shall review the proposed modification(s) in a public process to determine whether the proposed modified Project continues to satisfy the EOP Need and whether Material Adverse Impacts to transmission systems, if any, are mitigated. The Staff shall communicate the results of its findings to the Board as follows.

**11.4.5.1 Summary Change Statement.** Staff will provide a summary change statement to the Board when such changes are found by Staff to resolve the problem, mitigate Material Adverse Impacts, if any, and have the support of Affected Persons. In these situations the Board will not be required to take action for the revised plan to be included in the next Plan.

**11.4.5.2 Staff Recommendation.** Staff, when it finds any of the following:

- (i) the plan of service being implemented does not resolve the EOP Need;
- (ii) there is disagreement between or among the sponsors and participants as to the plan of service, sponsorship, schedule, cost allocation, or transmission rights allocation; or
- (iii) mitigation of Material Adverse Impacts is lacking;

will provide a recommendation to the Board on what actions if any the Board should take. For example, the Staff recommendation could be one or a combination of the following: (a) withdraw Board approval or acceptance of the Project, (b) address the situation in a subsequent system assessment, (c) start a Study Team to look at alternatives, or (d) bring the Affected Persons together to see if there is interest in having ColumbiaGrid mediate differences.

**11.4.5.3 Board Consideration.** In these situations, the Board shall consider the Staff recommendation and shall accept the recommendation or ask the Staff to reconsider its recommendation in light of additional factors that the Board may want included in the recommendation. No Project modification pursuant to this section 11.4.5 shall be deemed to amend any Facilities Agreement, and any amendment to any Facilities Agreement shall be subject to and pursuant to the provisions of such Facilities Agreement for its amendment (and subject to the provisions of section 6.2 of the body of this Agreement).

## **12. Initial Steps; Compilation of Existing Planning Documents**

Within six months after the execution of this Agreement, ColumbiaGrid shall request from the Planning Parties that each provide its then current transmission expansion plan to ColumbiaGrid. Using the material provided by the Planning Parties, ColumbiaGrid shall compile the plans of service and post such compilation on its Website.

**APPENDIX B**

**PRO FORMA  
FACILITIES AGREEMENT**

**FOR**

*[Insert name of EOP] EOP*

**AMONG**

**COLUMBIAGRID**

**AND**

*[Insert name(s) of Designated Person(s)]*

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**EXHIBITS**

- Exhibit A – Plan of Service
- Exhibit B – Responsibility Chart
- Exhibit C – Performance Milestones
- Exhibit D – Cost of Allocation
- Exhibit E – Estimated Payment Schedule
- Exhibit F – Additional or Maintained Transmission Capacity

## FACILITIES AGREEMENT

This FACILITIES AGREEMENT (“Agreement”) is entered into as of *[insert date of Facilities Agreement]*, by and among ColumbiaGrid, a Washington non-profit corporation, and *[insert each Designated Person]* (individually referred to as “Party” and in the plural referred to as “Parties”).

### RECITALS

A. The Board of Directors of ColumbiaGrid, a Washington state non-profit corporation, on *[insert date of Plan approving underlying EOP]* approved an Existing Obligation Project (the “*[insert name of EOP]* EOP”) pursuant to the ColumbiaGrid Planning and Expansion Functional Agreement (as it may be amended from time to time, “Planning Agreement”).

B. The *[insert name of EOP]* EOP is generally comprised of the following on the transmission system(s) of the following and is more particularly described in Exhibit A (Plan of Service): *[Insert general description of each involved transmission system and facilities to be installed]*.

C. The *[insert name of EOP]* EOP was approved by the Board to address the following Need(s) as identified by ColumbiaGrid pursuant to the Planning Agreement: *[Insert brief description of Need(s) and reference the Biennial Plan or Plan Update that includes the Needs Statement that resulted in the underlying EOP]*.

D. The Parties are ColumbiaGrid and the Designated Persons, as determined by ColumbiaGrid pursuant to the Planning Agreement, for the *[insert name of EOP]* EOP.

E. The Parties are entering into this Agreement to address: (1) the coordination of pre-construction activities, including environmental, budgetary, and regulatory processes, (2) the responsibility for planning, designing, siting, construction, payment and ownership for the *[insert name of EOP]* EOP facilities, and (3) allocation of any incremental transmission capacity resulting from the *[insert name of EOP]* EOP.

F. Pursuant to the foregoing, ColumbiaGrid has tendered this Agreement to the other Parties, and all Parties agree as follows:

## AGREEMENT

### 1. Definitions

All capitalized terms not defined in this Agreement shall have the meanings given to such terms in the Planning Agreement.

**1.1** “Agreement Limiting Liability Among Western Interconnected Systems” or “WIS Agreement” means at any time the Agreement Limiting Liability Among Western Interconnected Systems as it may have then been amended.

**1.2** “Allocated Cost Maximum” means for each Paying Party with respect to the Cost of any Work an amount equal to (i) its Allocated Share of the Cost Maximum for such Work, as set forth in Exhibit D plus (ii) any additional amount of Cost for such Work for which such Paying Party agrees to assume responsibility pursuant to sections 9.1.2, 10.2, or 12.

**1.3** “Allocated Share” means for each Paying Party with respect to the Cost of any Work an amount equal to its share or portion of the Cost of such Work, as set forth in Exhibit D.

**1.4** “Arbitrating Party” has the meaning given such term in section 17.2.

**1.5** “Assuming Party” has the meaning given such term in section 10.2.

**1.6** “Board” means the Board of Directors of ColumbiaGrid.

**1.7** “Breaching Party” has the meaning given such term in section 15.1.

**1.8** “Constructing Party” means, with respect to each facility comprising the Plan of Service, each Party responsible for performance of Work with respect to such facility as specified in Exhibit B.

**1.9** “Cost” means, with respect to Work by each Constructing Party: (i) the direct costs reasonably and necessarily incurred and paid by such Constructing Party in the performance of such Work, (ii) overhead reasonably allocable to such Work, and (iii) Interest on such direct costs from the later to occur of the date of this Agreement or the date of payment by the Constructing Party of such direct costs and continuing until the date of invoicing of the Paying Party(ies) for such direct costs.

**1.10** “Cost Maximum” means, with respect to the performance of Work on each of the facilities in the Plan of Service by a Constructing Party, the estimated cost of such Work plus a reasonable contingency, all as set forth in Exhibit B. *[Insert in Exhibit B the amount of the estimate by each Constructing Party of the Cost of the Work it is to perform plus a reasonable contingency; provided that such amount in Exhibit B may differ from Constructing Party’s estimate of the Cost of such Work (plus a reasonable contingency) and instead equal ColumbiaGrid’s estimate of the Cost of such Work (plus a reasonable contingency) if (i) ColumbiaGrid determines for good cause at the time it offers and enters into this Agreement to adopt for this Agreement its estimate rather than the Constructing Party’s or the Constructing*

*Party has not then provided an estimate of Cost (plus a reasonable contingency) for use by ColumbiaGrid as the Cost Maximum in Exhibit B and (ii) ColumbiaGrid provides a written explanation to all Parties of such good cause, the basis for any such determination and the basis for ColumbiaGrid's estimate of the Cost of such Work.]*

**1.11** “Cure” has the meaning given such term in section 10.1.

**1.12** “Defaulting Paying Party” has the meaning given such term in section 10.1.

**1.13** “Good Utility Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the Pacific Northwest.

**1.14** “Interest” means interest compounded daily at an annual interest rate equal to the lesser of (i) a rate equal to 200 basis points above the per annum prime rate reported daily in *The Wall Street Journal* or (ii) the maximum rate permitted by applicable law.

**1.15** “Liquidated Damages” means compensation as specified in section 15 for expenses ColumbiaGrid would not have incurred but for a Party's breach and which is not a penalty.

**1.16** “Milestones” mean, with respect to Work by each Constructing Party, the schedule for specific major milestone events that must occur in order for each facility in the Plan of Service with respect to such Work to be completed and placed in commercial operation, which Milestones are set forth in Exhibit C. *[Insert in Exhibit C each Constructing Party's estimated dates for its achievement of the Milestones for its Work consistent with the completion and commencement of commercial operation of the [insert name of EOP] EOP by the Target Date; provided that such dates in Exhibit C for such achievement may differ from the Constructing Party's estimated dates and instead equal ColumbiaGrid's estimated dates for such achievement if (i) ColumbiaGrid determines for good cause at the time it offers and enters into this Agreement to adopt for this Agreement its estimated dates rather than the Constructing Party's or the Constructing Party has not then provided estimated dates for such achievement for Exhibit C and (ii) ColumbiaGrid provides a written explanation to all Parties of such good cause, the basis for any such determination and the basis for ColumbiaGrid's estimated dates for such achievement.]*

**1.17** “Need” means, for purposes of this Agreement, each Need identified by ColumbiaGrid pursuant to the Planning Agreement that the Board determined would be addressed by the *[insert name of EOP] EOP*.

**1.18** “Notice of Default” has the meaning given such term in section 10.1.

- 1.19** “Notice of Election” has the meaning given such term in section 10.3.
- 1.20** “Notice of Rejection” has the meaning given such term in section 9.2.
- 1.21** “Notice Regarding Assumption” has the meaning given such term in section 10.1.

**1.22** “Paying Party” means, with respect to Work on each facility comprising the Plan of Service, each Party specified in Exhibit D as responsible for (i) paying to the Constructing Party such Paying Party’s Allocated Share of such Constructing Party’s Cost of such Work or (ii) bearing such Paying Party’s Allocated Share of such Cost, if the Paying Party with respect to such Work is also the Constructing Party for such Work. Paying Party with respect to Work also includes any Party that elects to be a Paying Party pursuant to sections 9.2, 10.2, or 12 with respect to such Work.

**1.23** “Payment Schedule” means, with respect to Work by each Constructing Party, the estimated schedule set forth in Exhibit E for payment of the Cost of such Work. *[Insert in Exhibit E each Constructing Party’s estimated payment schedule; provided that any such estimated schedule in Exhibit E may differ from the Constructing Party’s estimated payment schedule and instead equal ColumbiaGrid’s estimate of the payment schedule if (i) ColumbiaGrid determines for good cause at the time it offers and enters into this Agreement to adopt for this Agreement its estimate of the payment schedule rather than the Constructing Party’s or the Constructing Party has not then provided an estimated payment schedule and (ii) ColumbiaGrid provides a written explanation to all Parties of such good cause, the basis for any such determination and the basis for ColumbiaGrid’s estimate of the payment schedule.]*

**1.24** “Plan of Service” means the technical modifications to the Regional Interconnected Systems to be effected by the *[insert name of EOP]* EOP and is set forth in Exhibit A.

**1.25** “Target Date” means the date scheduled for completion and commercial operation of the *[insert name of EOP]* EOP.

**1.26** “Termination Cost” means, with respect to termination and wind-up of Work pursuant to this Agreement by the Constructing Party for such Work, (i) the direct costs (net of salvage) reasonably and necessarily incurred and paid by such Constructing Party in the termination and wind-up of such Work, (ii) overhead reasonably allocable to the termination and wind-up of such Work, and (iii) Interest on such direct costs from the later to occur of the date of this Agreement or the date of payment by the Constructing Party of such direct costs and continuing until the date of invoicing of the Paying Party(ies) for such direct costs.

**1.27** “Uncontrollable Force” means any act or event that delays or prevents a Party from timely performing obligations under this Agreement, including an act of God, strike, lock-out, labor dispute, labor disturbance, act of the public enemy, act of terrorism, war, insurrection, riot, fire, storm or flood, earthquake, explosion, accident to or breakage, failure or malfunction of machinery or equipment, any curtailment, order, regulation or restriction of any governmental, military or lawfully established civilian authorities (other than, as to its own performance, by

such Party that is a federal power marketing administration, municipal corporation or other federal, tribal or state governmental entity or subdivision thereof), or any other cause beyond such Party's reasonable control and to the extent without such Party's fault or negligence. Economic hardship shall not constitute an Uncontrollable Force under this Agreement.

**1.28** “WECC Path Rating Process” means the process described by the document published by the Western Electricity Coordinating Council, or its successor, titled Overview of Policies and Procedures for Regional Planning Project Review, Project Rating Review, and Progress Reports, as it may be amended or replaced.

**1.29** “Withdrawal Fee” has the meaning given such term in section 12.

**1.30** “Work” means the work necessary and appropriate to design, permit, site, procure, construct, and place into commercial operation each facility comprising the Plan of Service; *provided that* Work may be limited to environmental review pursuant to section 3.2.1.

## **2. Term**

This Agreement shall become effective on the date when all Parties have executed and delivered this Agreement and shall continue in effect until such time as the Work on the facilities comprising the *[insert name of EOP]* EOP and listed in Exhibit B is completed and placed in commercial operation or terminated pursuant to this Agreement. All obligations and liabilities accrued under this Agreement through such completion and placement in commercial operation or through such termination are hereby preserved until satisfied.

## **3. Exhibits**

**3.1** The following Exhibits are attached and made a part of this Agreement as if fully set forth in this Agreement:

(i) Exhibit A, which is the Plan of Service;

(ii) Exhibit B, which lists each of the facilities comprising the Plan of Service and the Work to be performed with respect to each such facility, identifies each Party responsible for performance of such Work with respect to each such facility, the Cost Maximum with respect to such Work on each such facility, and the ownership share of any Party in each such facility;

(iii) Exhibit C, which sets forth the Milestones for the performance of the Work with respect to each facility comprising the Plan of Service and the scheduled dates for the achievement of such Milestones;

(iv) Exhibit D, which sets forth each Paying Party's (i) Allocated Share of the Cost of Work (subject to such Paying Party's Allocated Cost Maximum for such Work) and (ii) Allocated Cost Maximum with respect to such Work; *[insert in Exhibit D each Paying Party(ies)'s respective Allocated Share and Allocated Cost Maximum for Work and either (i) each Paying Party(ies)'s respective*

Allocated Share percentage(s) responsibility for paying (or bearing) the Cost of such Work (subject to the Cost Maximum) with respect to Work to be performed with respect to each of the facilities comprising the Plan of Service or (ii) such other methodology specified in such exhibit for determining each Paying Party(ies)'s respective Allocated Share responsibility for paying (or bearing) the Cost (subject to its Allocated Cost Maximum) with respect to Work to be performed with respect to each of the facilities comprising the Plan of Service];

(v) Exhibit E, which sets forth the estimated Payment Schedule, if any, for performance of Work and identifies the payor Paying Party, the payee Constructing Party, and the estimated amounts and dates of payment; and

(vi) Exhibit F, which sets forth the amount, location, and owner of transmission capacity, if any, added or maintained by the [insert name of EOP] EOP, which transmission capacity is allocated as shown in Exhibit F. Unless otherwise set forth in Exhibit F, the Party that is the owner of the Transmission System that is expanded by any of the facilities comprising the Plan of Service will be the owner of additional transmission capacity, if any, which is added or maintained as a result of such facilities.

### **3.2 Sequencing of Work for Environmental Review**

**3.2.1.** If any Constructing Party(ies) or Paying Party(ies) has determined that it is obligated to conduct an environmental review before deciding to construct or pay for any portion of [insert name of EOP] EOP, such Constructing Party or Paying Party, as applicable, may provide to ColumbiaGrid a Cost estimate under section 1.10, Milestones under section 1.16, and a Payment Schedule under section 1.23, that describes Work, schedules for performance of, and payments for Work only through such environmental review. In such case, ColumbiaGrid shall include a Cost estimate, Milestones, and Payment Schedule in initial Exhibits B, C, and E to this Agreement that cover only environmental review Work. The Paying Party(ies) or Constructing Party(ies) that are not doing such environmental review phase of the Work shall not be obligated to (i) perform any Work, or (ii) pay any Cost for procurement of equipment or any Work other than environmental review phase of the Work, unless and until the environmental review Work has been successfully completed by all Constructing or Paying Parties performing such environmental review phase of the Work, and this Agreement has been amended pursuant to section 3.2.2.

**3.2.2** Upon completion by any Constructing Party(ies) or Paying Party(ies) of any necessary environmental review phase of the Work in connection with the [insert name of EOP] EOP pursuant to section 3.2.1, such Constructing Party(ies) or Paying Party(ies) shall submit to ColumbiaGrid pursuant to section 10.4.5 of Appendix A to the Planning Agreement any proposed modifications to the [insert name of EOP] EOP that such Party determines are necessary based on such environmental review and shall provide ColumbiaGrid a Cost estimate, Milestones, and Payment Schedule for the remainder of the Work on the [insert name of EOP] EOP consistent with the proposed modifications. ColumbiaGrid shall consider such proposed

modifications pursuant to section 10.4.5 of Appendix A to the Planning Agreement, and the further Cost estimate, Milestones, and Payment Schedule pursuant to sections 1.10, 1.16, and 1.23 of this Agreement, and shall offer any revised Exhibits as amendments to this Agreement that ColumbiaGrid determines are appropriate in light of such consideration and that are completed consistent with the instructions in the pro forma Facilities Agreement for completion of such Exhibits.

#### **4. Responsibility for Performance of Work**

**4.1** Subject to the provisions of this Agreement, each Constructing Party shall perform the Work identified in Exhibit B as to be performed by such Constructing Party consistent with Good Utility Practice, making reasonable efforts to perform such Work in accordance with the Milestone scheduled dates therefor in Exhibit C and to complete and place into commercial operation such Work by the Target Date. Unless otherwise set forth in Exhibit B, the Party specified as the owner of each facility comprising the Plan of Service shall be responsible for performing the Work with respect to such facility. Each Constructing Party shall make reasonable efforts to coordinate performance of its respective obligations under this Agreement so as to facilitate completion of the Work and commencement of the commercial operation of the *[insert name of EOP]* EOP by the Target Date. Each Constructing Party shall report in writing quarterly (or monthly if requested by a Party) during the performance of its Work to each of the other Parties progress in the performance of such Work and the anticipated Cost and anticipated time to complete and place into commercial operation such Work.

**4.2** Any Constructing Party may enter into contract(s) with contractor(s) or vendor(s) for performance of Work required by this Agreement to be performed by such Constructing Party, but no such contract(s) shall relieve such Constructing Party of any of its obligations under this Agreement. ColumbiaGrid shall not be a party to any such contract(s), nor shall ColumbiaGrid accept any third-party rights of any kind from or under any such contract(s).

#### **5. Ownership**

The Party that is the owner of the transmission system upon which any of the facilities comprising the Plan of Service are being added or upgraded will be the owner of such facilities unless otherwise set forth in Exhibit B. For purposes of this Agreement, an “owner” includes, but is not limited to, a Party that has a leasehold interest in or other beneficial use of the subject facilities, where, for financing purposes, legal title is held by another entity.

#### **6. Cost Responsibility**

**6.1** Unless otherwise set forth in Exhibit D, (i) any Paying Party with respect to any Work for which such Paying Party is not also the Constructing Party for such Work shall reimburse such Constructing Party for such Paying Party’s Allocated Share of the Cost incurred by such Constructing Party in the performance of such Work within thirty (30) days after the Constructing Party has incurred such Cost and has submitted an invoice therefor to such Paying Party and (ii) any Paying Party with respect to any Work for which such Paying Party is also the

Constructing Party for such Work shall bear its Allocated Share of the Cost incurred by such Constructing Party in the performance of such Work. The due date for the payment of any such invoice shall not be earlier than the date the Constructing Party is obligated to pay such Cost. A Paying Party's obligation to make payments of (or bear) Cost with respect to any Work shall in

the aggregate not exceed (i) its Allocated Cost Maximum for such Work plus (ii) in the event the Constructing Party terminates such Work pursuant to section 9.4, 10.3, or 12, such Paying Party's share, if any, as specified in such section, of the Termination Cost for such Work.

**6.2** Any Constructing Party that, as part of its Work, is to procure equipment that has a purchase price greater than \$500,000 and that either is specially engineered or has a long lead time, shall have the right to require the Paying Party(ies) with respect to payment for such equipment as Cost to make an assurance of payment of its Allocated Share of the purchase price to the vendor of such engineered equipment (including but not limited to posting a letter of credit with such vendor) sufficient to permit the vendor to rely solely on the credit of such Paying Party(ies) in lieu of the credit of the Constructing Party for payment of such purchase price.

**6.3** If a Paying Party questions or disputes an invoice or any items on an invoice, it shall nevertheless pay such invoice within the thirty (30) day time period stated in section 6.1 and shall notify the Constructing Party in writing of the basis of the question or dispute. The Constructing Party shall respond to the Paying Party in writing as soon as reasonably practicable, but in no event later than in the accounting provided for in section 6.4.

**6.4** Within a reasonable time after completion of the Work specified in Exhibit B to be performed by a Constructing Party, such Constructing Party shall make a full accounting in regard to such Work to each Paying Party for such Work. Such accounting shall show expenditures, adjustments for salvage, and any difference between (i) Cost reasonably and necessarily incurred and paid in the performance of such Work and (ii) payments made (or Cost borne) by each Paying Party with respect to such Work. The Constructing Party shall provide a copy of the accounting to all other Parties. Promptly after such accounting, the Constructing Party shall remit to the Paying Party any credit balance, and the Paying Party shall promptly after such accounting pay to the Constructing Party any debit balance.

**6.5** If a Paying Party questions or disputes any item in the accounting, it shall nevertheless pay any debit balance and notify the Constructing Party in writing of its question or dispute within ten (10) days of its receipt of the accounting. The Constructing Party and the Paying Party shall promptly commence good faith negotiations to resolve the question or dispute within twenty (20) days following such notification. If the Parties are unable to negotiate a resolution, the Paying Party may request an audit as provided in section 6.6.

**6.6** Within thirty (30) days after receipt of the accounting provided pursuant to section 6.3, any Paying Party shall have the right, at its expense, to request a review or audit of the Constructing Party's books, records, and documents that directly pertain to the Cost and invoices for Cost of Work for which such Paying Party has an Allocated Share pursuant to Exhibit D. Any review or audit shall be undertaken upon reasonable notice and in accordance with generally accepted auditing standards. The Paying Party shall notify the Constructing Party promptly of any exception taken as a result of the review or audit and the disputing Parties shall promptly commence good faith negotiations to resolve the dispute. If the Paying Party and Constructing Party agree on any exception, the Constructing Party shall refund to the Paying Party any credit amount due to Paying Party resulting from such exception within thirty (30) days of such agreement (and Paying Party shall pay to the Constructing Party any debit amount

due to Constructing Party resulting from such exception within thirty (30) days of such agreement).

**6.7** If the Paying Party and Constructing Party fail to agree on an exception taken as a result of the review or audit, either of such Parties may initiate informal dispute resolution pursuant to section 17 and, if the dispute over the exception is not resolved by such informal dispute resolution process, may initiate arbitration with respect to any factual issues by arbitration pursuant to section 17 or other appropriate proceedings with respect to any other issues; *provided* that any such informal dispute resolution and arbitration must be commenced within sixty (60) days of receipt of the report from the auditor.

**6.8** Any Paying Party with respect to any Work requesting a review or audit pursuant to section 6.6 shall provide all other Paying Parties with respect to such Work, if any, the opportunity to participate in and share (in proportion to their respective Allocated Shares of the Cost of such Work) the expense of the review or audit and informal dispute resolution and arbitration of any exceptions taken individually or jointly with other Paying Parties with respect to such Work in order to reduce duplication of effort and to endeavor to avoid inconsistent determinations between or among various Parties with respect to the Cost of such Work. Any Paying Party with respect to any Work that declines to participate in and share the costs of the review or audit or informal dispute resolution and arbitration with respect to the Cost of such Work may not request a separate review or audit or informal dispute resolution and arbitration with respect to such Cost.

#### **6.9 Interest on Late Payment**

Any invoice not paid when due by a Paying Party shall bear Interest from the date such amount was due until the date of payment.

#### **6.10 Termination and Wind-up**

**6.10.1** In the event that a Constructing Party terminates Work pursuant to section 9.4, each Paying Party shall reimburse the Constructing Party for such Paying Party's Allocated Share of any Termination Cost of such Work within thirty (30) days after the Constructing Party has incurred such Termination Cost and has submitted an invoice therefor to such Paying Party (or, if the Paying Party is also the Constructing Party with respect to such Work, shall bear its Allocated Share of any Termination Cost of such Work). In the event that a Constructing Party terminates Work pursuant to section 10.3 or 12 (as a result of a Paying Party defaulting under section 10 or a Withdrawing Paying Party withdrawing under section 12), the Defaulting Paying Party or Withdrawing Paying Party as the case may be shall reimburse the Constructing Party for 100% of any Termination Cost of such Work within thirty (30) days after the Constructing Party has incurred such Termination Cost and has submitted an invoice therefor to such Paying Party (or, if the defaulting Paying Party or Withdrawing Paying Party as the case may be is also the Constructing Party with respect to such Work, shall bear 100% of any Termination Cost of such Work).

**6.10.2** If any Paying Party disputes any Termination Cost as invoiced by the Constructing Party, any such Paying Party or such Constructing Party may initiate informal dispute resolution pursuant to section 17 and, if the dispute over the Termination Cost is not resolved by such informal dispute resolution process, may initiate arbitration with respect to any factual issues by arbitration pursuant to section 17 or other appropriate proceedings with respect to any other issues; *provided that* any such informal dispute resolution and arbitration must be commenced within sixty (60) days of receipt of an invoice for such Termination Cost.

**6.10.3** In the event a termination of Work pursuant to this Agreement results in a dispute between the Constructing Party and a contractor or vendor, the Constructing Party shall not settle such contractor's or vendor's claim (if and to the extent the cost of such settlement would constitute Termination Cost) without the written consent of any Paying Party(ies) with respect to such Termination Cost, which consent shall not be unreasonably withheld.

## **7. Transfer Capability**

**7.1** Ownership and use of any transmission capacity that is

- (i) added or maintained as a result of the *[insert name of EOP]* EOP, and
- (ii) added or maintained on the transmission system of a Party as a result of any of the facilities comprising the Plan of Service, but
- (iii) specified in Exhibit F as to be owned by another Party,

shall only be pursuant to and shall be governed by a written separate capacity agreement between such Parties to be mutually agreed upon between such Parties and entered into contemporaneously with this Agreement; *provided that* in the absence of such a capacity agreement, the use of any additional capacity that is

- (i) added or maintained as a result of the *[insert name of EOP]* EOP, and
- (ii) added or maintained on the transmission system of a Party as a result of any of the facilities comprising the Plan of Service, but
- (iii) specified in Exhibit F as to be owned by another Party,

shall be governed by a transmission agreement between such Parties.

**7.2** It is anticipated that *[insert name of EOP]* EOP may have gone through the WECC Path Rating process during its development under the Planning Agreement. If it has not, the Parties shall cooperate in a review, if appropriate, of the *[insert name of EOP]* EOP under the WECC Path Rating Process and a determination, if appropriate, under such process of additional transmission capacity, if any, that is created as a result of the *[insert name of EOP]* EOP. Unless otherwise set forth in Exhibit F, the Parties agree that the amount of additional transmission

capacity, if any, which is created as a result of the *[insert name of EOP]* EOP and that is allocated in Exhibit F shall be consistent with any such determination under such process of the amount of such additional transmission capacity.

## **8. Revisions in Work by Constructing Party**

**8.1** Each Constructing Party shall promptly provide each of the other Parties an opportunity to comment on proposed revisions to estimated Cost and proposed construction schedules stated in the Exhibits to this Agreement whenever the Constructing Party determines that it may deviate from such estimated Cost or construction schedules. No Party that receives any such proposed revisions to estimated Cost or proposed construction schedules shall have any obligation under this Agreement to review or comment thereon. Any such review or comment (or delay or failure to review or comment) thereon by any of such receiving Party shall not relieve such Constructing Party of any obligation under this Agreement or otherwise.

**8.2** No revisions (or proposed revisions) pursuant to section 8.1 by a Constructing Party to estimated Cost or proposed construction schedules shall amend any Exhibit or any other provision of this Agreement or the respective obligations of the Parties under this Agreement: *provided that* the Allocated Cost Maximum of a Party may be increased as provided in and pursuant to section 9.

## **9. Rights When Cost of Work Exceeds Allocated Cost Maximums**

**9.1** A Constructing Party with respect to Work may by written notice to each other Party propose to increase the Allocated Cost Maximum of each Paying Party with respect to such Work in proportion to the respective Allocated Shares of each Paying Party with respect to such Work. Each such notice shall include an explanation of the basis for the proposed increase. By written notice (within thirty (30) days of receipt of the notice from the Constructing Party), each such Paying Party may, but shall not be obligated to, accept the proposed increase to its Allocated Cost Maximum.

**9.1.1** If each Paying Party so accepts its increased Allocated Cost Maximum with respect to Work, ColumbiaGrid shall issue to each Party a revised Exhibit D reflecting such increased Allocated Cost Maximums with respect to such Work, and such revised Exhibit D shall thereupon be substituted for the previous Exhibit D in this Agreement.

**9.1.2** If any Paying Party does not so accept its proposed increased Allocated Cost, the Constructing Party may invoice such Paying Party under section 6.1 only up to its Allocated Cost Maximum as stated in Exhibit D prior to such proposed revision, subject to the provisions of section 9.2.

**9.2** ColumbiaGrid shall provide written notification to all Parties whenever any Paying Party rejects a proposed increase of its Allocated Cost Maximum with respect to Work

pursuant to section 9.1.2 (“Notice of Rejection”). Within ten (10) days of such Notice of Rejection, any non-rejecting Party may elect to assume the amount of the proposed increase in the rejecting Paying Party’s Allocated Cost Maximum with respect to such Work by providing written notification of such assumption to all Parties. If more than one Party including the Constructing Party with respect to such Work so elects to assume such amount, such Constructing Party shall assume such amount. If the Constructing Party does not elect to assume such amount, the electing Paying Party with the largest Allocated Share shall assume the rejecting Paying Party’s amount. If neither such Constructing Party nor a non-rejecting Paying Party elects to assume the rejecting Paying Party’s amount, the first other non-Paying Party with respect to such Work to provide notice, if any, shall assume such amount. If pursuant to section 9.1 and 9.2, the amounts of all proposed increases in Allocated Cost Maximum for such Work are accepted or assumed, ColumbiaGrid shall issue to each Party a revised Exhibit D reflecting such increased Allocated Cost Maximums with respect to such Work, and such revised Exhibit D shall thereupon be substituted for the previous Exhibit D in this Agreement.

**9.3** In the event that a Paying Party rejects an increase to its Allocated Cost Maximum proposed pursuant to this section 9 with respect to Work, the transmission capacity, if any, provided by such Work shall be equitably reallocated among the Parties by agreement of the Parties (and ColumbiaGrid shall issue a revised Exhibit F reflecting such re-allocation, and such revised Exhibit F shall thereupon be substituted for the previous Exhibit F in this Agreement); *provided* that the reallocation shall not reduce the capacity rights of any Party that has not rejected the proposed increase to its Allocated Cost Maximum with respect to such Work if the Work is completed; *provided further* that if the Parties do not reach agreement on such reallocation, the matter shall be referred to informal dispute resolution pursuant to section 17 and, if the dispute over the reallocation is not resolved by such informal dispute resolution process, such reallocation shall be resolved with respect to any factual issues by arbitration pursuant to section 17 or other appropriate proceedings with respect to other issues; *provided that* any such informal dispute resolution and arbitration must be commenced within sixty (60) days of receipt of any Notice of Rejection with respect to such proposed increase in the Allocated Cost Maximums.

**9.4** If a Constructing Party proposes an increase to the Allocated Cost Maximum with respect to any Work and any portion of such increase is not accepted or assumed pursuant to section 9.1 or 9.2, the Constructing Party shall terminate and wind-up such Work.

**9.5** ColumbiaGrid shall not accept or assume any Allocated Cost Maximum (or transmission capacity) pursuant to this section 9.

## **10. Default of Paying Party**

**10.1** If any Paying Party fails to make when due any payment to a Constructing Party with respect to any Cost of Work performed by such Constructing Party, such Constructing Party shall promptly give a written notice of default (“Notice of Default”) to each other Party and may, upon providing notification in the Notice of Default, stop such Work until it receives the delinquent payment. Any such Notice of Default shall identify the defaulting Paying Party (“Defaulting Paying Party”), the date such payment was to be made, and the amount of the

delinquent payment. If the Defaulting Paying Party does not, within ten (10) days of its receipt of such Notice of Default, make such payment and give written notice of such payment to each other Party (“Cure”), then the Constructing Party may elect, by written notice of election (“Notice Regarding Assumption”) to each other Party within ten (10) days after the due date for Cure, to either

(i) continue with the Work with respect to which the Defaulting Paying Party is in default and pursue any available remedy for breach by the Defaulting Paying Party of its obligation to pay its Allocated Share of the Cost of Work, and reasonable costs of collection, including attorneys’ fees (the Defaulting Paying Party shall retain its capacity rights, if any, specified in Exhibit F after it has paid its Allocated Share of the Cost of Work and any costs of collection); or

(ii) assume all rights and all current outstanding and future obligations under this Agreement (and in any related capacity agreements entered into to effectuate the [insert the name of the EOP] EOP) of the Defaulting Paying Party, including the Defaulting Paying Party’s capacity rights, if any, specified in Exhibit F (upon such assumption by such Constructing Party, the Defaulting Paying Party shall lose all such rights and be excused from performance of all such current outstanding and future obligations).

**10.2** If the Constructing Party fails to elect either item (i) or (ii) of section 10.1, then any other Party (“Assuming Party”) may assume such rights and current outstanding and future obligations by tendering Cure of the default and giving written Notice Regarding Assumption to each other Party within twenty (20) days of the original due date for Cure by the Defaulting Paying Party. Any Notice Regarding Assumption shall specify the Notice of Default giving rise to such Notice Regarding Assumption. If the Constructing Party does not so assume such rights and current outstanding and future obligations of the Defaulting Paying Party, and more than one Party gives Notice Regarding Assumption and tenders Cure with respect to a particular Notice of Default, the Assuming Party shall be the Party otherwise paying or bearing the larger Allocated Share of the Cost with respect to such Work that gives Notice Regarding Assumption and tenders Cure. If only non-Paying Parties with respect to such Work give a Notice Regarding Assumption and tender of Cure, the first such Party to do so shall be the Assuming Party. Neither ColumbiaGrid, the Defaulting Paying Party with respect to such Work, nor the Constructing Party with respect to such Work may give Notice Regarding Assumption pursuant to this section 10.2. Upon any such assumption by an Assuming Party, the Defaulting Paying Party shall lose all such rights and be excused from performance of all such current outstanding and future obligations.

**10.3** If neither the Constructing Party giving a Notice of Default nor any Assuming Party assumes pursuant to sections 10.1 or 10.2 the Defaulting Paying Party’s rights and current outstanding and future obligations, such Constructing Party shall promptly by written notice to all other Parties (“Notice of Termination”) terminate and wind up such Work. In such case, the Constructing Party shall be entitled to collect (i) from each Paying Party (including the Defaulting Paying Party) for such Work such Party’s Allocated Share of the Cost of such Work

performed prior to its termination and wind-up (not to exceed such Party's Maximum Allocated Share for such Work) and (ii) from the Defaulting Paying Party 100% of the Termination Cost for such Work. In addition, the Constructing Party shall be entitled to also collect from such Defaulting Paying Party pre-judgment interest, and reasonable costs of collection, including reasonable attorneys' fees.

**10.4** The remedies under this section 10 shall be the exclusive remedies for a Paying Party's default of its obligation under this Agreement to make a payment to a Constructing Party with respect to any Cost of Work performed by such Constructing Party. The Defaulting Paying Party shall not recover from any other Party amounts it paid with respect to the Cost of Work prior to its default.

## **11. Failure of Performance by Constructing Party**

**11.1** If a Constructing Party breaches its obligations under this Agreement to: (i) complete its Work on the *[insert name of EOP]* EOP in accordance with this Agreement or (ii) perform its Work on the *[insert name of EOP]* EOP consistent with Good Utility Practice, the Constructing Party shall be subject to liquidated damages in accordance with section 15.1 below; *provided that*, for any willful breach by such Constructing Party of such obligations that result in a failure of performance in whole or in part (other than for breaches described in item (i) or (ii)) of this section 11.1 and that are not excused pursuant to section 13, such Constructing Party shall be subject to making restitution of any amounts paid by any Paying Party.

**11.2** Except as stated in this section 11, no Constructing Party shall be liable for any breach of this Agreement.

## **12. Election by Paying Party to Meet Need in Alternative Manner**

In the event that a Paying Party that is not a Constructing Party determines either that its Need(s) intended to be met by the *[insert name of EOP]* EOP no longer exists or can be met by such Paying Party in another manner to be implemented by such Paying Party (whether or not any other Party also has a Need intended to be met by the *[insert name of EOP]* EOP), such Paying Party ("Withdrawing Paying Party") may elect to terminate (by giving written notice of termination ("Notice of Termination") to each other Party) its obligation to make payments under this Agreement of (or bear) its Allocated Share of any Cost and incurred by the Constructing Party with respect to Work after its receipt of such Notice of Termination. Upon giving such Notice of Termination, the Withdrawing Paying Party shall (i) lose all its rights and all current outstanding and future obligations under this Agreement (and in any related capacity agreements entered into to effectuate the *[insert the name of the EOP]* EOP), including such Withdrawing Paying Party's capacity rights, if any, specified in Exhibit F and (ii) be excused from performance of all such current outstanding and future obligations. Such rights and current outstanding and future obligations of the Withdrawing Paying Party may be assumed as though such Withdrawing Paying Party were a Defaulting Paying Party with respect to Work under section 10; *provided that* in lieu of the amounts which a Defaulting Paying Party would be required to pay pursuant to section 10, the Withdrawing Paying Party

(i) shall pay to the Constructing Party (or bear) such Withdrawing Paying Party's Allocated Share of any Cost of Work incurred by Constructing Party prior to its receipt of such Notice of Withdrawal, and

(ii) shall pay to ColumbiaGrid an amount ("Withdrawal Fee") equal to ten (10) percent of such Paying Party's Allocated Cost Maximum for Work, and

(iii) shall, if the Withdrawing Paying Party's rights and current outstanding and future obligations are not assumed by any Party(ies) and the Constructing Party terminates the Work, pay to the Constructing Party(ies) for the Work, the Termination Cost of the Work.

In the event that any Paying Party(ies) elects to assume the Withdrawing Paying Party's rights and current outstanding and future obligations with respect to the Work and the Work is completed and placed in commercial operation, ColumbiaGrid shall pay the Withdrawal Fee it receives to the Constructing Party(ies) for the Work, which shall credit such payment against the Cost of the Work.

### **13. Uncontrollable Force and Other Excused Non-Performance**

#### **13.1 Uncontrollable Force**

A Party shall not be in breach of this Agreement as a result of such Party's failure or delay to perform its obligations under this Agreement when such failure is caused by an Uncontrollable Force that such Party, despite the exercise of due diligence, is unable to remove with reasonable dispatch; *provided however* that such Party shall have the right to suspend performance of such obligations only to the extent and for the duration that the Uncontrollable Force actually and reasonably prevents the performance of such obligations by such Party. In the event of the occurrence of an Uncontrollable Force that delays or prevents a Party's performance of any of its obligations under this Agreement, such Party shall (i) immediately notify the other Parties of such Uncontrollable Force with such notice to be confirmed in writing as soon as reasonably practicable, (ii) use due diligence to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligations under this Agreement, (iii) keep the other Parties apprised of such efforts on an ongoing basis, and (iv) provide written notice of the resumption of performance under this Agreement. Notwithstanding any of the foregoing, the settlement of any strike, lockout, or labor dispute constituting an Uncontrollable Force shall be within the sole discretion of the Party to this Agreement involved in such strike, lockout, or labor dispute; and the requirement that a Party must use due diligence to remedy the cause of the Uncontrollable Force or mitigate its effects and resume full performance hereunder shall not apply to strikes, lockouts, or labor disputes.

**13.2** The Constructing Party, after consultation with the other Parties, may defer its Work if and to the extent delay or failure to upgrade facilities on another transmission system would prevent such Work from resolving the Need. The Constructing Party shall promptly notify each of the other Parties in writing of any such deferral and the reasons for such deferral.

### **13.3 Other Excused Non-Performance**

If any Party determines in good faith that the performance of any of its obligations under this Agreement would cause such Party to (i) act contrary to a policy of such Party over which it has discretion relating to siting, budgeting, funding, or construction of transmission projects or (ii) improperly implement any law, regulation, rule, order, or FERC license provision applicable to such siting, budgeting, funding, or construction of transmission projects, such Party shall notify the other Parties of such determination, and all Parties shall enter into good faith negotiations to reasonably resolve the matter to the extent practicable in a manner that will restore the Parties' respective relative benefits and obligations under this Agreement that existed immediately prior to such notification. Each Party to this Agreement is excused from performance of any obligation under this Agreement that the Party determines in good faith would cause the Party to

- (i) act contrary to a policy of such Party over which it has discretion relating to siting, budgeting, funding, or construction of transmission projects, or
- (ii) to violate or improperly implement an applicable law, regulation, rule, order, FERC license provision;

*provided that* any obligations and liabilities accrued under this Agreement prior to notification of such determination are hereby preserved until satisfied.

### **14. Interconnected Operation**

No contractual obligation of any Party with respect to operation, maintenance, or interconnection of any facilities comprising the Plan of Service shall be created by this Agreement, and any such obligation shall only be pursuant to a separate (existing or new) operating, maintenance, interconnection, or similar agreement.

### **15. Liability and Damages**

**15.1** The Parties agree that the failure of any Party to perform its obligations under this Agreement (exclusive of a Party's breach of its obligation under this Agreement to make in a timely manner a payment to a Constructing Party with respect to any Cost of Work performed by such Constructing Party or to bear such Cost) may result in damages to other Parties, but that such damages are indefinite and difficult to quantify. Therefore, in lieu of any other remedy for monetary damages, the Parties agree that in the event of a material breach of this Agreement by any Party ("Breaching Party") that is not cured within a period of sixty (60) days following such Breaching Party's receipt of written notice from any other Party of such breach, the Breaching Party shall pay to ColumbiaGrid the following amounts as liquidated damages and not as a penalty:

**15.1.1** For each day that a Party, by breaching its obligation to use reasonable efforts to perform Work for which it is responsible pursuant to Appendix B, causes the *[insert name of EOP]* EOP not to be completed and placed in commercial operation by the Target Date

(or causes the *[insert name of EOP]* EOP to be placed in commercial operation after the Target Date), the sum of \$500 per day up to a maximum aggregate total for all such breaches by such Breaching Party of \$50,000.

**15.1.2** For each material breach of this Agreement other than a breach described in section 15.1.1, the sum of \$10,000, up to a maximum aggregate total for all such breaches by such Breaching Party of \$50,000;

**15.2** Except as provided in section 15.1.1 or in section 15.1.2 and except as provided with respect to restitution in section 11.1, no Party shall be liable under this Agreement to any other Party for monetary damages for breach of this Agreement, and each Party hereby waives all remedies for monetary damages for breach of this Agreement except as provided in such sections. All other equitable remedies (other than for the payment of money) for breach of this Agreement that may be available as between ColumbiaGrid and a Breaching Party are preserved, subject to the requirements of law and any regulatory authority having jurisdiction.

**15.3** Notwithstanding this section 15 or any other provision of this Agreement, nothing in this Agreement shall amend or modify the WIS Agreement as it relates to parties thereto, including any Parties.

**15.4** In no event shall any Party have any right against any other Party to specific performance of this Agreement. Nothing in this Agreement shall limit any Party's right to declaratory judgment with respect to declaration of any rights or obligations of any Party under this Agreement.

## **16. Assignments and Conveyances**

### **16.1 Successors and Assigns**

This Agreement is binding on and shall inure to the benefit of the Parties and their respective successors, permitted assigns, and legal representatives.

### **16.2 Assignment of ColumbiaGrid's Rights and Obligations**

ColumbiaGrid shall not, without the prior written consent of each of the other Parties, assign, pledge or transfer all or any part of, or any right or obligation under, this Agreement, whether voluntarily or by operation of law; *provided* nothing in this section 16.2 shall prohibit ColumbiaGrid from contracting with Third Persons for the provision of services to assist ColumbiaGrid in performing its obligations under this Agreement.

### **16.3 Assignment of a Party's Rights and Obligations**

Except as otherwise provided in section 16.4, a Party shall not, without the prior written consent of ColumbiaGrid, assign, pledge, or transfer all or any part of, or any right or obligation under, this Agreement, whether voluntarily or by operation of law; *provided however* that a Party may, without the consent of ColumbiaGrid, assign its rights and obligations under this Agreement to any Person (i) into which such Party is merged or consolidated or (ii) to which such Party sells, transfers, or assigns all or substantially all of its Electric System, so long as the survivor in any such merger or consolidation, or the purchaser, transferee, or assignee of such Electric System provides to each of the other Parties a valid and binding written agreement expressly assuming and agreeing to be bound by all obligations of such Party under this Agreement.

### **16.4 Assignment of Facilities**

Notwithstanding any other provision of this Agreement, any Party may pledge or assign all or any portion of its transmission system without any other Party's consent.

### **16.5 Effect of Permitted Assignment**

In the event of any permitted sale, transfer or assignment under this Agreement, the transferor or assignor shall to the extent of the transferred or assigned obligations, and only to such extent, be relieved of obligations accruing from and after the effective date of such transfer or assignment; *provided however* that under no circumstances shall any sale, transfer, or assignment relieve the transferor or assignor of any liability for any breach of this Agreement occurring prior to the effective date of such transfer or assignment.

### **16.6 Consent Not Unreasonably Denied or Delayed**

Consents to assignment, pledge, or transfer requested pursuant to this section 16 shall not be unreasonably denied or delayed.

## **17. Informal Dispute Resolution and Arbitration of Factual Disputes**

### **17.1 Informal Dispute Resolution**

Any dispute under this Agreement between or among Parties shall be referred to designated senior representatives of such Parties for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days or such other period of not more than forty-five (45) days as the Parties may agree upon by mutual agreement, any factual dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below in sections 17.2 through 17.6 and any other dispute shall be subject to resolution in the appropriate forum unless otherwise agreed by such Parties.

## **17.2 Arbitration of Factual Dispute Procedures**

Any factual dispute under this Agreement not resolved pursuant to section 17.1 between or among Parties (“Arbitrating Parties”) shall be resolved pursuant to sections 17.2 through 17.6 below, unless otherwise agreed in writing among such Arbitrating Parties. Any arbitration initiated under this section 17 shall be conducted before a single neutral Arbitrator appointed by the Arbitrating Parties. If the Arbitrating Parties fail to agree upon a single Arbitrator within ten (10) days of the referral of the dispute to arbitration, the Arbitrating Parties shall take turns striking names from the list of potential arbitrators maintained and supplied by ColumbiaGrid pursuant to section 17.6, with an Arbitrating Party chosen by lot first striking a name. The last-remaining name not stricken shall be designated as the Arbitrator for such dispute. If that individual is unable or unwilling to serve, the individual last stricken from the list shall be designated as the Arbitrator (and the process repeated until an individual is selected who is able and willing to serve). Absent the express written consent of all Arbitrating Parties as to any particular individual, a person shall not be eligible for selection as an Arbitrator if such person (i) is a past or present officer, member of the governing body, employee of or consultant to any of the Arbitrating Parties, or of an entity related to or affiliated with any of the Arbitrating Parties or (ii) has any current or past substantial business or financial relationships with any of the Arbitrating Parties (except as an arbitrator in any prior arbitration). The Arbitrator shall provide each of the Arbitrating Parties an opportunity to be heard and, except as otherwise provided in this section 17, shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

## **17.3 Arbitration Decisions**

Unless otherwise agreed in writing by the Arbitrating Parties, the Arbitrator shall render a decision within ninety (90) days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The Arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any of the provisions of this Agreement in any manner. The decision of the Arbitrator shall be final and binding upon the Arbitrating Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the Arbitrator may be appealed solely on the grounds that the conduct of the Arbitrator, or the decision itself, violated the standards set forth in the Federal Arbitration Act and/or the Administrative Dispute Resolution Act. The final decision of the Arbitrator must also be filed with the Commission if it affects jurisdictional rates, terms and conditions of service or facilities.

## **17.4 Costs**

Each Arbitrating Party shall be responsible for its own costs incurred during the arbitration process and for an equal share of the cost of the single Arbitrator.

## **17.5 Rights Under The Federal Power Act**

Nothing in this section shall restrict the rights of any Party to file a complaint with the Commission or seek any other relief under relevant provisions of the Federal Power Act.

**17.6 List of Potential Arbitrators**

ColumbiaGrid shall establish, and from time to time update, a list of not less than 5 potential arbitrators. Potential arbitrators on such list shall be generally knowledgeable about electric utility matters and policies, criteria, and regulatory requirements applicable to the Regional Interconnected Systems. ColumbiaGrid shall furnish such list for use pursuant to section 17.2.

**18. Notices**

**18.1 Permitted Methods of Notice**

Any notice, demand, or request in accordance with this Agreement, unless otherwise provided in this Agreement, shall be in writing and shall be deemed properly served, given, or made to the address of the receiving Party set forth below (i) upon delivery if delivered in person, (ii) upon execution of the return receipt, if sent by registered United States or Canadian mail, postage prepaid, return receipt requested, or (iii) upon delivery if delivered by prepaid commercial courier service.

The address of ColumbiaGrid shall be:

*[Insert address and representative for ColumbiaGrid]*

\_\_\_\_\_

Attn: \_\_\_\_\_

*[Insert names, addresses, and representatives for other Parties]*

The address of \_\_\_\_\_ shall be:

\_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

**18.2 Change of Notice Address**

Any Party may at any time, by notice to the other Parties, change the designation or address of the person specified to receive notice on its behalf.

**18.3 Routine Notices**

Any notice of a routine character in connection with this Agreement shall be given in such a manner as the Parties may determine from time to time, unless otherwise provided in this Agreement.

## **19. Amendment or Modification**

### **19.1 Amendment by Mutual Agreement**

This Agreement may not be amended or modified except by any subsequent mutual written agreement, duly executed by all Parties.

### **19.2 Invalidity**

If any provision of this Agreement, or the application thereof to any person, entity, or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification, or condition.

### **19.3 Conformance to Pro Forma**

The Parties shall not, without the prior written consent of all parties to the Planning Agreement, which consent is not to be unreasonably withheld, amend this Agreement to be inconsistent with the pro forma Facilities Agreement set forth in the Planning Agreement. If the Planning Agreement is amended by the parties thereto so as to amend the pro forma Facilities Agreement set forth in the Planning Agreement, ColumbiaGrid shall offer an amendment to this Agreement to conform this Agreement to such amended pro forma Facilities Agreement.

## **20. Construction of Agreement**

Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in a manner that most accurately reflects the purpose of this Agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed.

## **21. Integration**

This Agreement, including the Exhibits hereto, constitutes the complete agreement of the Parties and supersedes all prior or contemporaneous representations, statements, negotiations, understandings, and inducements with respect to the subject matter hereof. The Exhibits hereto, as they may be revised from time to time, are incorporated by reference as if fully set forth in this Agreement.

## **22. Existing Agreements Preserved**

Nothing in this Agreement shall be interpreted to supersede the requirements of any existing agreement unless otherwise expressly stated in this Agreement.

## **23. Governing Law**

This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of *[insert the state where facility/ies are to be located]*, except to the extent that such laws may be preempted by the laws of the United States or of Canada, as applicable; *provided however* that notwithstanding the foregoing, with respect to a dispute involving a Party that is a United States government entity (including, but not limited to, a federal power marketing administration), this Agreement shall in all respects be interpreted, construed, and enforced in accordance with the laws of the United States. The Parties acknowledge that with respect to a Party that is an agency of the United States federal government, under law in effect as of the effective date of this Agreement, such agency has not by this Agreement waived its sovereign immunity.

## **24. Singular and Plural; Use of “Or”**

Any use of the singular in this Agreement also includes the plural and any use of the plural also includes the singular. References to “or” shall be deemed to be disjunctive but not necessarily exclusive. References to “including,” “include,” and “includes” shall be deemed to mean “including but not limited to,” “include but not limited to,” and “includes but not limited to,” respectively.

## **25. Headings for Convenience Only**

The section headings in this Agreement are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provisions of this Agreement.

## **26. Relationship of the Parties**

### **26.1 No Partnership, Etc.**

Nothing contained in this Agreement shall be construed to create an association, joint venture, trust, or partnership or to impose a trust or partnership covenant, obligation, or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement.

### **26.2 Rights Several**

All rights of the Parties are several, not joint. Except as may be expressly provided in this Agreement, no Party shall have a right or power to bind any other Party without such Party’s express written consent.

## **27. No Third Person Beneficiaries**

This Agreement shall not be construed to create rights in, or to grant remedies to, any third Person as a beneficiary of this Agreement or of any duty, obligation, or undertaking established in this Agreement.

**28. No Dedication of Facilities**

No undertaking by any Party to another Party under or pursuant to any provision of this Agreement shall constitute or be deemed to constitute a dedication of all or any portion of any Party's transmission system, to any other Party or to the public.

**29. Nonwaiver**

Any waiver at any time by any Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any other default or other matter arising in connection with this Agreement. Any waiver must be delivered in writing, executed by an authorized representative of the Party granting such waiver. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

**30. Further Actions and Documents**

Each Party agrees to do all things, including, but not limited to, the preparation, execution, delivery, filing, and recording of any instruments or agreements reasonably requested by any other Party necessary to carry out the provisions of this Agreement.

**31. Counterparts**

This Agreement may be executed in counterparts, which may be executed at different times. Each counterpart shall constitute an original but all counterparts together shall constitute one and the same instrument. ColumbiaGrid shall maintain the original signature pages, and shall prepare and distribute a conformed copy of this Agreement to the Parties.

**32. Representation of Authority**

Each Party, upon its execution and delivery of this Agreement, represents that it has authority to enter into and perform this Agreement. Each Party represents that the individual signing this Agreement on its behalf is authorized to sign this Agreement on behalf of the Party for which such individual signs.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective names.

**Columbia Grid**

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

Its: \_\_\_\_\_

*[Insert names of Parties]*

**[Name]**

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

Its: \_\_\_\_\_

**[Name]**

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

Its: \_\_\_\_\_

**Exhibit A**  
**PLAN OF SERVICE**

**Exhibit B**

| <b>Facility and Work Description</b> | <b>Design Responsibility</b> | <b>Siting Responsibility</b> | <b>Equipment Procurement and Construction Responsibility</b> | <b>Allocated Share Among Parties A/B/C, etc.</b> | <b>Facility Ownership Share Percentage Among Parties A/B/C, etc.</b> | <b>Comments</b> |
|--------------------------------------|------------------------------|------------------------------|--|--|--|-----------------|
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**Exhibit C**  
**PERFORMANCE MILESTONES**

**Exhibit D**  
**COST ALLOCATION**

**Exhibit E**  
**ESTIMATED PAYMENT SCHEDULE**

**Exhibit F**

**ADDITIONAL OR MAINTAINED TRANSMISSION CAPACITY**