

RESOLUTION 02-15

BE IT RESOLVED by the City Commission of the CITY OF ST. MARYS, KANSAS, that \_\_\_\_\_ is hereby authorized to execute for and on behalf of the CITY OF ST. MARYS, KANSAS, the attached Contract No. 14-RMR-2543 with the Western Area Power Administration, which was duly presented to the City Commission and which Contract is hereby approved.

(State of Kansas)

) ss

(Counties of Pottawatomie and Wabaunsee)

I, \_\_\_\_\_, the duly appointed and qualified \_\_\_\_\_ of the CITY OF ST. MARYS, KANSAS, do hereby certify that the foregoing is a true, accurate, and complete copy of a resolution duly passed and adopted at a regular meeting of the City Commission of the CITY OF ST. MARYS, KANSAS, held on \_\_\_\_\_, 20\_\_.

Dated: \_\_\_\_\_

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

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

(SEAL)

DELIVERY OBLIGATION

1. This Exhibit A, to be effective under and as a part of Contract No. 14-RMR-2543, dated \_\_\_\_\_, 20\_\_\_\_, hereinafter called the Contract, will remain in effect until superseded by another Exhibit A; Provided, That this Exhibit A or any superseding Exhibit A will terminate upon expiration or termination of the Contract.
  
2. SEASONAL ENERGY AND CONTRACT RATES OF DELIVERY FOR FIRM POWER:
  - 2.1 Subject to changes as provided in Sections 5 and 7.6 of the Contract, beginning on October 1, 2024, and continuing through the end of the calendar day on September 30, 2034, the Seasonal Energy during the Winter Season will be 657,961 kilowatthours; and the Seasonal Energy during the Summer Season will be 795,552 kilowatthours.
  
  - 2.2 Subject to changes as provided in Sections 5 and 7.6 of the Contract, beginning on October 1, 2024, and continuing through the end of the calendar day on September 30, 2034, the CROD for firm electric service during the Winter Season will be 393 kilowatts, and the CROD for the Summer Season will be 434 kilowatts.

3. MONTHLY ENERGY: The Monthly Energy is prorated to the Point(s) of Delivery based upon each Point of Delivery's share of the CROD as set forth in Section 5 of this Exhibit A. Pursuant to Sections 7.1 and 7.2 of the Contract, the amounts of Monthly Energy based upon the percentages of Seasonal Energy that Contractor is entitled to use each month are as follows:

<u>Winter Season</u>	<u>MONTHLY ENERGY</u> (kWh)	<u>PERCENT OF SEASONAL ENERGY</u> (%)
October	111,195	16.9
November	111,195	16.9
December	121,723	18.5
January	118,433	18.0
February	93,431	14.2
March	<u>101,984</u>	<u>15.5</u>
TOTAL WINTER SEASON ENERGY:	657,961	100

<u>Summer Season</u>	<u>MONTHLY ENERGY</u> (kWh)	<u>PERCENT OF SEASONAL ENERGY</u> (%)
April	116,151	14.6
May	121,719	15.3
June	140,017	17.6
July	175,021	22.0
August	140,017	17.6
September	<u>102,627</u>	<u>12.9</u>
TOTAL SUMMER SEASON ENERGY:	795,552	100

4. MONTHLY CAPACITY: The monthly percentages of CROD listed below are applied to the CROD at the Point(s) of Delivery set forth in Section 5 of this Exhibit A. Pursuant to Sections 7.1 and 7.2 of the Contract, Contractor's Monthly Capacity based upon the percentages of the CROD listed below are as follows:

<u>Winter Season</u>	<u>MONTHLY CAPACITY</u> (kW)	<u>PERCENT OF CROD</u> (%)
October	364	92.6
November	358	91.2
December	393	100.0
January	382	97.3
February	355	90.4
March	322	82.0

<u>Summer Season</u>	<u>MONTHLY CAPACITY</u> (kW)	<u>PERCENT OF CROD</u> (%)
April	358	82.6
May	336	77.5
June	403	93.0
July	434	100.0
August	381	87.9
September	370	85.4

5. POINTS OF DELIVERY AND VOLTAGES: The firm electric service sold under this Contract is delivered at the following point(s) and voltage(s) as provided in Section 7.4 of the Contract:

<u>POINT OF DELIVERY</u>	<u>CROD</u>	
	<u>Winter</u> (kW)	<u>Summer</u> (kW)
NPPD.MEAN.LD	393	434

6. MINIMUM HOURLY DELIVERY: Contractor's Minimum Hourly Delivery, as provided for in Section 7.3 of the Contract, is:

<u>Winter Season</u>	<u>MINIMUM HOURLY DELIVERY</u> (kW)	<u>PERCENT OF CROD</u> (%)
October	75	19
November	75	19
December	86	22
January	82	21
February	67	17
March	67	17

<u>Summer Season</u>	<u>MINIMUM HOURLY DELIVERY</u> (kW)	<u>PERCENT OF CROD</u> (%)
April	82	19
May	91	21
June	104	24
July	139	32
August	108	25
September	74	17

7. This Exhibit A may be modified as provided in Section 17 of the Contract.

MAXIMUM PURCHASE OBLIGATION

1. This Exhibit B, to be effective under and as a part of Contract No. 14-RMR-2543, dated \_\_\_\_\_, 20\_\_\_\_, hereinafter called the Contract, will remain in effect until superseded by another Exhibit B; Provided, That this Exhibit B or any superseding Exhibit B will terminate upon expiration or termination of the Contract.
2. The maximum amounts of capacity to be purchased by Western for Contractor pursuant to Section 7.6.4 of the Contract are the monthly amounts set forth below:

<u>Winter Season</u>	<u>AMOUNTS TO BE PURCHASED</u> (kW)
October	19
November	18
December	20
January	20
February	20
March	23

<u>Summer Season</u>	<u>AMOUNTS TO BE PURCHASED</u> (kW)
April	21
May	19
June	15
July	23
August	20
September	19

3. This Exhibit B may be modified as provided in Section 17 of the Contract.

DELIVERIES OF PUMPED-STORAGE AND RETURN ENERGY

1. This Exhibit C, to be effective under and as a part of Contract No. 14-RMR-2543, dated \_\_\_\_\_, 20\_\_\_\_, hereinafter called the Contract, will remain in effect until superseded by another Exhibit C; Provided, That this Exhibit C or any superseding Exhibit C will terminate upon expiration or termination of the Contract.
2. Deliveries of Pumped-Storage and Return Energy to and from Malta Substation pursuant to Section 8 of the Contract are made under the provisions of Network Integration Transmission Service Agreement No. 13-RMR-2368 between Western and the Public Service Company of Colorado (Public Service), or any subsequent contract.
3. For Pumped-Storage Energy scheduled pursuant to Section 8 of the Contract, Contractor is responsible for transmission losses on the Public Service transmission system at the Public Service Tariff loss rate.
4. For Return Energy scheduled pursuant to Section 8 of the Contract, Contractor is responsible for transmission losses on all applicable transmission systems, including those inside the Western Area Colorado Missouri Balancing Authority at

the applicable loss rate, and the Public Service transmission system at the Public Service Tariff loss rate.

5. This Exhibit C may be modified as provided in Section 17 of the Contract. Further, if Western's contractual arrangements for transmission of Pumped-Storage Energy and/or Return Energy hereunder change, Western reserves the right to revise this Exhibit C to conform to new arrangements between Western and Public Service.

CONTRACT NO. 14-RMR-2543

BETWEEN

CITY OF ST. MARYS, KANSAS

AND

UNITED STATES  
DEPARTMENT OF ENERGY  
WESTERN AREA POWER ADMINISTRATION  
ROCKY MOUNTAIN REGION

LOVELAND AREA PROJECTS

FOR

FIRM ELECTRIC SERVICE

CONTRACT NO. 14-RMR-2543  
 BETWEEN  
 CITY OF ST. MARYS, KANSAS  
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CONTRACT NO. 14-RMR-2543

BETWEEN

CITY OF ST. MARYS, KANSAS

AND

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DEPARTMENT OF ENERGY  
WESTERN AREA POWER ADMINISTRATION  
ROCKY MOUNTAIN REGION

LOVELAND AREA PROJECTS

FOR

FIRM ELECTRIC SERVICE

1. PREAMBLE: This Contract is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, (Effective Date) pursuant to the Acts of Congress approved June 17, 1902 (32 Stat. 388), August 4, 1977 (91 Stat. 565); October 24, 1992 (106 Stat. 2776, 2799-2803); August 8, 2005 (119 Stat. 594); other acts that specifically apply to the projects involved; and Acts amendatory or supplementary to the foregoing acts between the UNITED STATES OF AMERICA, acting by and through the Administrator, Western Area Power Administration, Department of Energy, hereinafter called Western, represented by the officer executing this Contract or a duly appointed successor; and CITY OF ST. MARYS, KANSAS, a municipality duly organized and existing under and by virtue of the laws of the State of Kansas, hereinafter called Contractor, its successors and assigns; each sometimes hereinafter individually called the Party and both sometimes hereinafter collectively called the Parties.

2. EXPLANATORY RECITALS:

2.1 Western markets and delivers wholesale hydroelectric power generated at Federal dams in the Pick-Sloan Missouri Basin Program-Western Division (Pick-Sloan Western Division), and the Fryingpan-Arkansas Project collectively, Loveland Area Projects, or LAP.

2.2 LAP energy with capacity was previously marketed pursuant to the Post-1989 General Power Marketing and Allocation Criteria, Pick-Sloan Western Division (Post-1989 Plan) published in the Federal Register (51 FR 4012), January 31, 1986.

2.3 The Energy Planning and Management Program (EPAMP) Final Rule published in the Federal Register (60 FR 54151) October 20, 1995, Subpart C extended and amended the Post-1989 Plan. In addition, EPAMP implemented the requirements of Section 114 of the Energy Policy Act of 1992 that requires integrated resource planning by Western's firm electric service customers.

2.4 Western's LAP Final 2025 Power Marketing Initiative (2025 PMI), published in the Federal Register December 30, 2013 (78 FR 79444), is inclusive of the Post-1989 Plan, as revised and published in the Federal Register

- November 3, 1993 (58 FR 58690), and as extended and amended by EPAMP and the Post-2004, Post-2009, and Post-2014 LAP resource pool allocations. The 2025 PMI provides the basis for marketing the LAP long-term firm hydroelectric resources beginning with the Federal fiscal year 2025, including the contract term and resource pools.
- 2.5 Contractor's Contract No. 14-RMR-2475, Firm Electric Service, as amended or supplemented (Original Contract), expires at the end of the calendar day on September 30, 2024.
- 2.6 The 2025 PMI provides for Western to extend the existing Contract Rate of Delivery (CROD) with associated energy to existing long-term firm electric service customers. The CROD with associated energy is subject to reductions, withdrawals, restrictions, limits, penalties, termination, and any other applicable adjustments under Contractor's Original Contract, and is subject to any Western-approved assignments. The CROD with associated energy may be reduced by up to one percent (1%) for each new resource pool in 2024, 2034, and 2044, and is also subject to other adjustments under this Contract.
- 2.7 The Parties choose to enter into this Contract by which Western will provide firm electric service to Contractor from October 1, 2024, through the end of the calendar day on September 30, 2054. This Contract will provide an

orderly transition of firm electric service from the Original Contract to this Contract.

2.8 If applicable, certain allocation holders identified in Exhibit D have assigned their LAP allocations to Contractor, and those assigned LAP allocations are included in this Contract.

3. AGREEMENT: The Parties agree to the terms and conditions set forth herein.

4. TERM OF CONTRACT: This Contract is effective as of the date in Section 1 above, will remain in effect through the end of the calendar day on September 30, 2054, and is subject to prior adjustments, modification, or termination as provided herein; Provided, That the delivery of firm electric service under this Contract does not commence until October 1, 2024.

5. RELATED CONTRACTS:

5.1 Contractor's Original Contract expires by its own terms and terminates in its entirety at the end of the calendar day on September 30, 2024.

5.2 In the event the Original Contract is terminated prior to the end of the calendar day on September 30, 2024, this Contract terminates effective with

the termination of the Original Contract, unless otherwise provided in another agreement.

5.3 The CROD with associated energy under Contractor's Original Contract may be modified prior to October 1, 2024, based upon the terms in Contractor's Original Contract related to reductions, withdrawals, restrictions, limits, penalties, termination, and any other applicable adjustment. If such modifications occur prior to October 1, 2024, this Contract and any applicable exhibits and attachments will be revised.

5.4 If applicable, certain allocation holders identified in Exhibit D have assigned their LAP allocations to Contractor, and those assigned LAP allocations are included in this Contract. If this Contract terminates for any reason, any applicable allocation assignment agreement(s) shall terminate concurrently with the termination of this Contract.

6. DEFINITIONS: The following capitalized terms have the designated meaning when used in this Contract:

6.1 Contract Rate of Delivery or CROD is the maximum amount of capacity Contractor is entitled to receive in the December billing period of each Winter Season and the July billing period of each Summer Season as set forth in Exhibit A of this Contract.

- 6.2 Minimum Hourly Delivery is the minimum percentage of Contractor's CROD which Contractor must accept each hour of each month of each season as set forth in Exhibit A of this Contract.
- 6.3 Monthly Capacity is the quantity of firm capacity, expressed in kilowatts (kW) that Western is committed to supply and Contractor is entitled to receive each month as set forth in Exhibit A of this Contract.
- 6.4 Monthly Energy is the quantity of firm energy, expressed in kilowatthours (kWh) that Western is committed to supply and Contractor is entitled to receive each month as set forth in Exhibit A of this Contract.
- 6.5 Points of Delivery are the points where firm electric service furnished by the Loveland Area Projects is delivered as set forth in Exhibit A of this Contract.
- 6.6 Pumped-Storage Energy is energy scheduled from Mount Elbert Powerplant for debit to Contractor's Pumped-Storage Energy account as set forth in Section 8 of this Contract.
- 6.7 Return Energy is the energy scheduled to Western for credit to Contractor's Pumped-Storage Energy account as set forth in Section 8 of this Contract.

6.8 Seasonal Energy is the quantity of firm energy, expressed in kWh that Western is committed to supply and Contractor is entitled to receive each Winter Season and each Summer Season as set forth in Exhibit A of this Contract.

6.9 Summer Season is the six (6) month period from the first day of the April billing period through the last day of the September billing period of any calendar year.

6.10 Support Energy is non-Loveland Area Projects energy purchased on a pass-through cost basis at Contractor's request as set forth in Section 9 of the Contract.

6.11 Time is Mountain Standard Time or Mountain Daylight Time, as appropriate.

6.12 Winter Season is the six (6) month period from the first day of the October billing period of any calendar year through the last day of the March billing period of the following calendar year.

7. FIRM ELECTRIC SERVICE:

7.1 Seasonal Energy and Contract Rate of Delivery: Western, under the terms and conditions set forth in this Contract and within the available capacity of

the applicable substation and transmission facilities to deliver the firm electric service at specific Points of Delivery, will furnish firm electric service to Contractor. Firm electric service will be provided at Contractor's Seasonal Energy with the Monthly Energy amounts, and Contractor's CROD with the Monthly Capacity amounts. Delivery will be provided at the amounts, Point(s) of Delivery, and voltage(s) set forth in Exhibit A of this Contract, less any adjustments specified herein. Contractor will not claim as operating reserves any portion of its CROD or its Monthly Capacity.

7.2 Monthly Commitments: The Monthly Energy and the Monthly Capacity are set forth in Exhibit A of this Contract. Monthly Energy may not be transferred from month to month. Changes requested by Contractor must be submitted in writing to Western for approval sixty (60) days prior to the beginning of any season for which a change is requested to the CROD at the Points of Delivery, and will be set forth in a revised Exhibit A to this Contract.

7.3 Minimum Hourly Delivery: The Minimum Hourly Delivery is set forth in Exhibit A to this Contract and may be changed at Western's discretion to meet changing water release constraints, resource constraints, or seasonal hydrology conditions. Minimum Hourly Delivery changes for a period of more than one (1) year will be set forth in Exhibit A of this Contract. Contractor will be given thirty (30) days from the date of Western's written notice to provide comment prior to any such change.

7.4 Points of Delivery and Voltages: Generally, all delivery points will be on the LAP transmission system. Firm electric service furnished to Contractor will be delivered at the point(s) and voltage(s) set forth in Exhibit A of this Contract.

7.4.1 Transmission costs and losses incurred in the delivery of firm electric service to the Points of Delivery on the LAP transmission system as identified in Exhibit A of this Contract are the responsibility of Western.

7.4.2 All transmission costs, including but not limited to losses and other charges, associated with the delivery of firm electric service beyond the LAP transmission system are the responsibility of the Contractor.

7.4.3 Arrangements may be made with a third party to transmit and deliver energy from the Points of Delivery on the LAP transmission system to Contractor's point of use. Such arrangements will normally be made, managed, and paid by Contractor, or by a group of firm electric service customers. Contractor may request Western to make such arrangements on Contractor's, or a group of firm electric service customers' behalf. If Western consents to make such arrangements, including contracting for the transmission on behalf of Contractor or a group of firm electric service customers, Western will pass through all the costs, along with all associated allocable costs, to the requesting Contractor or group of firm electric service customers, as applicable.

7.5 Metering: If applicable, the point(s) of metering and metering voltage(s) are set forth in the Scheduling, Accounting, and Billing Procedure entered into pursuant to Section 13 of this Contract. If the firm electric service delivered hereunder is measured at point(s) and/or voltage(s) other than the Point(s) of Delivery, the measured amount(s) may be adjusted for losses between the Point(s) of Delivery and the point(s) of metering.

7.6 Allocation Adjustments:

7.6.1 Adjustments for Periodic Resource Pools: Effective October 1, 2024, October 1, 2034, and October 1, 2044, for each respective resource pool, the Seasonal Energy and CROD will be adjusted up to the maximum permitted withdrawal of 1 percent.

7.6.1.1 Western will provide Contractor two (2) years advance written notice of such adjustment.

7.6.1.2 The adjustments to Seasonal Energy and CROD (Winter Season and Summer Season based on the then-current Exhibit A) will be calculated according to the following formulas. The resulting Adjusted Seasonal Energy and Adjusted CROD will be set forth in revisions to Exhibit A of this Contract:

Seasonal Energy (current Exhibit A) x 99% = Adjusted  
Seasonal Energy

CROD (current Exhibit A) x 99% = Adjusted CROD

7.6.1.3 If Western determines that any portion of the Seasonal Energy and CROD withdrawn under the terms of this Section 7.6.1 are not required for the resource pools, Western may offer a pro-rata share of the unallocated Seasonal Energy and CROD to Contractor by withdrawing less than the maximum one percent (1%) allowed for each resource pool.

7.6.2 Adjustment for Short-Term Hydrology Increases: The Monthly Energy may be increased periodically, at Western's discretion, if short-term hydrology conditions allow. If the Monthly Energy is increased for any month, it will revert in subsequent months to the Monthly Energy as set forth in Exhibit A of this Contract.

7.6.3 Adjustment for Transmission System Capacity Limitations: In determining the LAP marketable capacity, Western presumed transmission system capacity losses would be offset by diversity. If transmission system diversity becomes insufficient to offset capacity losses, all firm electric service customers' CROD may, at the discretion

of Western, be reduced in each season on a prorated basis following Western's advance written notice to each firm electric service customer, including Contractor, of such reduction. Contractor will be given thirty (30) days from the date of Western's written notice to provide comment prior to the effective date of any such reduction.

7.6.4 Adjustment Due to LAP Generating Capacity Assumptions: LAP allocations are based on the probability that Federal hydropower generation capacity will be available ninety percent (90%) of the time. In periods of adverse generating capacity, Western may be required to reduce Federal generation to the capacity available at the ninety-nine percent (99%) probability level rather than the ninety percent (90%) probability level.

7.6.4.1 Western will provide Contractor at least ninety (90) days written notice prior to any required reduction due to adverse generating capacity as described in Section 7.6.4.

7.6.4.2 Contractor may elect to purchase replacement capacity through Western on a pass-through cost basis. The monthly maximum amounts of replacement capacity Western may purchase for Contractor are set forth in Exhibit B of this Contract. If Contractor fails to deposit the required funds as

requested by Western pursuant to Section 11.1 of this Contract, Contractor will lose its election under this Section 7.6.4 for the season elected.

7.6.4.3 Contractor will provide written notification to Western within thirty (30) days of notice if it elects to have Western purchase replacement capacity on its behalf. Contractor may change its election by written notice to Western sixty (60) days prior to the beginning of any Summer Season or Winter Season.

7.6.4.4 If Contractor elects not to have Western purchase replacement capacity on its behalf, Western may, at its discretion, reduce Contractor's Monthly Capacity as set forth in Exhibit A of this Contract to reflect the difference between the ninety percent (90%) probability level and the amount of capacity available, but not below the ninety-nine percent (99%) probability level.

7.6.5 Adverse Hydrology Adjustments: Western may, at its discretion, adjust the Seasonal Energy and CROD upon five (5) years advance written notice to Contractor; Provided, That such additional adjustment, if any, will be made only in response to changes in hydrology and/or river

operations. Proportional adjustments will be set forth in Exhibit A of this Contract after an appropriate public process.

7.6.6 Adjustments Due to Newly Available Resources: In the event that Western, at its sole discretion, determines that Seasonal Energy and CROD become available, Western may offer these resources to its firm electric service customers. Western may wait until such time as it accumulates sufficient Seasonal Energy and CROD to justify offering these resources in order to eliminate administrative burden.

7.6.7 Adjustments Due to Lack of Generation Resources Beyond the LAP System: LAP does not have generation resources in the States of Kansas and Nebraska, and has utilized contractual arrangements with third parties for delivery into Kansas and Nebraska. In the event that Western, at its sole discretion, determines it does not have or is unable to secure acceptable generation/power supply arrangements with third parties, for delivery of firm electric service, Contractor may make arrangements to take delivery of its allocation at agreed upon Point(s) of Delivery on the LAP transmission system, inclusive of LAP facilities in the Eastern Interconnection.

7.6.8 Adjustment for Lack of Transmission Service: If Contractor is unable or unwilling to make transmission arrangements beyond the LAP

system at its sole expense pursuant to Sections 7.4.2, 7.4.3, and 7.6.7 of the Contract, Western may adjust Contractor's Seasonal Energy and CROD, or terminate this Contract in its entirety.

- 7.6.9 Adjustments Due to Termination of Assignment: As applicable, if any assignment identified in Exhibit D of the Contract is terminated, the Seasonal Energy and CROD associated with that assignment will be withdrawn from Contractor by revising Exhibit D. Withdrawals under these conditions may be administratively reallocated by Western without further public process.
8. PUMPED-STORAGE AND RETURN ENERGY: Contractor may elect to use Pumped-Storage Energy according to the terms of this Contract.
- 8.1 If Contractor elects not to use Pumped-Storage Energy, Western may utilize the LAP Pumped-Storage feature. Western's purchases to restore the Pumped-Storage Energy account(s) will be incorporated into the LAP rate base.
- 8.2 Transmission for delivery of Pumped-Storage Energy and Return Energy over the system(s) of third parties will be made under the terms and conditions of contracts between Contractor and applicable third parties. Upon Western's written request, Contractor will provide Western a copy of such contract(s).

8.3 For firm electric service customers not directly interconnected to the LAP transmission system at Malta Substation, the losses and transmission charges set forth in Exhibit C hereto will be assessed on schedules to and from Western.

8.4 Pumped-Storage Energy Account:

8.4.1 As of October 1, 2024, Contractor will have 3.9 kilowatthours per kilowatt of its CROD for the Summer Season and 4.4 kilowatthours per kilowatt of its CROD for the Winter Season in a Pumped-Storage Energy account.

8.4.2 Contractor may schedule energy to or from Western for credit or debit to Contractor's Pumped-Storage Energy account. Pumped-Storage Energy may be scheduled to Contractor from Western only when there is a positive balance in Contractor's Pumped-Storage Energy account.

8.4.3 Contractor will schedule and deliver 1.4 kWh of Return Energy to Western at such points on the LAP transmission system as the Parties mutually agree for each kilowatt-hour scheduled from Contractor's Pumped-Storage Energy account. Western will credit Contractor's Pumped-Storage Energy account 1.0 kWh per 1.4 kWh of Return Energy received. All Return Energy will be accounted for as if it were

transmitted to Malta Substation regardless of the point(s) at which it is actually delivered. The 1.4 kWh of Return Energy for every 1.0 kWh of Pumped-Storage Energy ratio will be reviewed and may be adjusted by Western periodically to more accurately reflect actual operating experience or conditions.

8.4.4 Contractor's Pumped-Storage Energy account will not exceed the initial amount of energy as specified in Section 8.4.1 of this Contract. The balance in Contractor's Pumped-Storage Energy account must be restored to this level by Contractor at the end of each Summer Season and each Winter Season.

#### 8.5 Scheduling:

8.5.1 Pumped-Storage and Return Energy will be scheduled according to Western's Scheduling, Accounting, and Billing Procedure.

8.5.2 Contractor's total hourly rate of delivery of Monthly Energy, Pumped-Storage Energy, and Support Energy will not exceed Contractor's Monthly Capacity.

8.5.3 Return Energy will normally be scheduled to Western for credit to Contractor's Pumped-Storage Energy account during off-peak hours

as defined in the Scheduling, Accounting, and Billing Procedure. These hours are subject to change at Western's sole discretion should operating experience or conditions indicate such a change is necessary.

8.5.4 If Western determines that Return Energy schedules must be curtailed due to Western's inability to absorb off-peak energy, such schedules will be curtailed for all LAP firm electric service customers on a pro rata basis.

8.6 If Contractor fails to restore its Pumped-Storage Energy account to its initial level at the end of each Summer Season and each Winter Season as required pursuant to Section 8.4.4 of this Contract, Western will purchase the energy required, at Contractor's expense, and invoice Contractor an amount equal to Western's cost to provide said energy. The purchase of required energy is subject to Provision 3 of the General Power Contract Provisions attached hereto.

9. SUPPORT ENERGY:

9.1 At Contractor's request and to the extent that it is able to do so, Western will purchase Support Energy for Contractor on a pass-through cost basis

pursuant to Section 11.1 of this Contract. Support Energy is in addition to Monthly Energy and Pumped-Storage Energy.

9.1.1 Support Energy may be purchased in addition to Monthly Energy such that the combined Monthly Energy and Support Energy does not exceed the energy associated with utilizing the Contractor's Monthly Capacity at Contractor's historical system load factor as determined by Western.

9.1.2 The Contractor's Support Energy will be determined by Western based on data and information requested from Contractor.

9.1.3 The combined rate of delivery of Monthly Energy, Support Energy, and Pumped-Storage Energy may not exceed the Contractor's Monthly Capacity.

9.2 The terms of Support Energy purchases will be set forth in either a separate agreement between the Parties or an exhibit to this Contract.

10. RATES: Western will charge Contractor for firm electric service furnished hereunder in accordance with rates set forth in the LAP Rate Schedule(s), currently Schedule L-F10, or any superseding rate schedule(s).

11. COMPENSATION: Contractor will pay Western for firm electric service furnished hereunder in accordance with the following as well as applicable provisions set forth in the General Power Contract Provisions, attached hereto and made a part hereof.

11.1 Pass-Through Costs: Contractor will pay Western in advance for pass-through costs made pursuant to Sections 7.4.3, 7.6.4.2, and 9 of this Contract.

11.1.1 Trust Account: Western will establish a trust account and will require Contractor to deposit an amount into the trust account sufficient to pay for the estimated amount of one (1) month's pass-through cost by Western on behalf of Contractor. Contractor will deposit funds into the trust account, as requested by Western, prior to Western purchasing on behalf of Contractor.

11.1.2 Excess money remaining in the trust account at the end of a season will be credited toward Contractor's next season, if applicable.

11.1.3 Excess money remaining in the trust account at the end of the purchase agreement period will be refunded to Contractor as soon as practicable, without any interest whatsoever.

11.1.4 If at any time, the trust account balance is insufficient to pay for the cost of purchases by Western at Contractor's request, Contractor will deposit an amount into the trust account as requested by Western, upon receipt of an itemized invoice.

11.2 Bill Crediting: Payments due Western by Contractor, or due by Western to Contractor, may be accomplished through third party bill crediting as follows. All other payment provisions will remain in full force and effect.

11.2.1 Payments to a third party: Payments due Western by Contractor will be paid by Contractor to a third party when so directed by Western. Any third party designated to receive payment, and the amount to be paid to that party, will be identified in writing to Contractor with the monthly power bill. The payment to the third party will be due and payable by the payment due date specified on Contractor's power bill issued by Western. When remitting payment to a designated third party, Contractor will indicate that such payment is made on behalf of Western. Western will credit Contractor for the amount paid to the designated third party as if payment had been made directly to Western and release Contractor from such payment obligation to Western.

11.2.2 Payments from a third party: Contractor will accept payment from a third party of amounts due Contractor by Western and will notify Western of the date of receipt of each payment. Contractor will credit Western for such payment the same as if payment had been made directly by Western and release Western from such payment obligation to Contractor. This obligation to accept payment from a third party does not release Western of its obligation to pay Contractor if a third party is unwilling or unable to pay. In the event a third party payment to Contractor exceeds Western's payment obligation to Contractor, Contractor will reimburse the difference to Western within twenty (20) days of receipt of such third party payment. In the event Western directs more than one third party to make payment to Contractor and the total payments exceed Western's payment obligation to Contractor, Contractor will reimburse the difference to Western within twenty (20) days of receipt of the last payment received by Contractor.

12. CREDITWORTHINESS PROCEDURES: Contractor agrees to comply with Western's Creditworthiness Procedures, which are attached hereto and made a part of this Contract the same as if expressly set forth herein. These Creditworthiness Procedures may be superseded by any Creditworthiness Procedures as agreed to and executed by the Parties.

13. SCHEDULING, ACCOUNTING, AND BILLING PROCEDURE:

13.1 A written Scheduling, Accounting, and Billing Procedure will be developed and executed by the Parties prior to October 1, 2024, and will be attached hereto and made a part hereof. The Scheduling, Accounting, and Billing Procedure implements certain terms of this Contract but does not modify or amend it and is, therefore, subordinate to this Contract.

13.2 Deliveries of firm electric service hereunder may be scheduled in advance as determined by Western, emergencies excepted, and accounted for on the basis of such advance schedules in accordance with the Scheduling, Accounting, and Billing Procedure. The Scheduling, Accounting, and Billing Procedure will specify the conditions under which inadvertent deliveries, which are greater or less than scheduled deliveries, may be corrected in later deliveries.

13.3 If Contractor does not execute the initial Scheduling, Accounting, and Billing Procedure or any revised Scheduling, Accounting, and Billing Procedure which Western determines to be necessary, Western will implement the Scheduling, Accounting, and Billing Procedure until mutually acceptable procedures have been developed and executed by the Parties.

14. POWER FACTOR: Contractor will maintain the power factor specified in Western's rate schedule(s) and General Power Contract Provisions. If the power factor requirements under the applicable rate schedule(s) and the General Power Contract Provisions differ, the more stringent requirement will apply.

14.1 If Contractor fails to comply with the power factor requirement in Section 14 above, Western may:

14.1.1 Provide Contractor ninety (90) days advance written notice of noncompliance.

14.1.2 Initiate the Power Factor Accounting and Compliance Procedures in the Scheduling, Accounting, and Billing Procedure.

14.2 Western may correct the condition by making compensatory improvements to Western's system at Contractor's expense, or by making compensatory improvements to Contractor's system with prior approval of Contractor.

14.3 If Western is required to pay for system improvements associated with power factor correction on the systems of its wheeling agents which are attributable to conditions on the system of Contractor, Contractor agrees to pay Western for the cost of such improvements.

15. INTEGRATED RESOURCE PLANNING: EPAMP requires that Contractor submit an Integrated Resource Plan (IRP) to Western. Alternatively, as provided in EPAMP, Contractor may submit a small customer plan, minimum investment report, or energy efficiency/renewable energy report if Contractor satisfies applicable qualifying requirements contained in Subpart B 10 CFR Part 905, as amended, of EPAMP.

15.1 Western will administer the integrated resource planning requirements in accordance with EPAMP, as amended.

15.2 Contractor will comply with applicable integrated resource planning requirements in accordance with EPAMP, as amended.

15.3 Contractor's failure to comply with EPAMP's integrated resource planning requirements, after exhaustion of all applicable administrative appeals, will result in the application of penalties as specified in EPAMP.

15.4 In the event Western promulgates changes to EPAMP, Contractor may terminate this Contract, by written notice to Western within ninety (90) days after the effective date of an EPAMP change. This Contract will terminate no later than one (1) year from the date of Contractor's written notice to Western.

16. RENEWABLE ENERGY CREDITS: If Contractor takes delivery of LAP firm electric service and so elects, credit will be offered by Western for LAP renewable energy attributes (or other related attributes as may be determined in the future) under the terms and conditions provided in Exhibit E to this Contract.

17. EXHIBITS: As applicable, initial Exhibits A, B, C, D, and E are incorporated by reference and made a part of this Contract. All exhibits will be in full force and effect in accordance with their terms and the terms of this Contract.

17.1 The Parties may add or revise an exhibit upon signature of the Parties. The Parties may terminate an exhibit by signing a letter of concurrence agreeing to such termination.

17.2 If there is a conflict between the provisions of this Contract and any exhibit to this Contract, the provisions of this Contract will prevail.

18. GENERAL POWER CONTRACT PROVISIONS: The General Power Contract Provisions (GPCP) effective September 1, 2007, attached hereto, are made a part of this Contract the same as if they had been expressly set forth herein; Provided, That Provisions 19 through 30 will not be applicable hereunder.

19. AUTHORITY TO EXECUTE: Each individual signing this Contract certifies that the Party represented has duly authorized such individual to execute this Contract that binds and obligates the Party.

The Parties have executed this Contract No. 14-RMR-2543 to be effective on the date set forth in Section 1 above.

WESTERN AREA POWER ADMINISTRATION

By: \_\_\_\_\_  
David Neumayer

Title: Vice President of Power Marketing  
Rocky Mountain Region

Address: Western Area Power Administration  
P.O. Box 3700  
Loveland, CO 80539-3003

CITY OF ST. MARYS, KANSAS

(SEAL)

Attest:

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

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

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

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

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

RESOLUTION

BE IT RESOLVED by the City Council of the CITY OF ST. MARYS, KANSAS, that \_\_\_\_\_ is hereby authorized to execute for and on behalf of the CITY OF ST. MARYS, KANSAS, the attached Contract No. 14-RMR-2543 with the Western Area Power Administration, which was duly presented to the City Council and which Contract is hereby approved.

(State of Kansas)

) ss

(Counties of Pottawatomie and Wabaunsee)

I, \_\_\_\_\_, the duly appointed and qualified \_\_\_\_\_ of the CITY OF ST. MARYS, KANSAS, do hereby certify that the foregoing is a true, accurate, and complete copy of a resolution duly passed and adopted at a regular meeting of the City Council of the CITY OF ST. MARYS, KANSAS, held on \_\_\_\_\_, 20\_\_.

Dated: \_\_\_\_\_

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

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

(SEAL)

**WESTERN AREA POWER ADMINISTRATION  
GENERAL POWER CONTRACT PROVISIONS**

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\*Legal Citation Revised September 1, 2007

WESTERN AREA POWER ADMINISTRATION  
GENERAL POWER CONTRACT PROVISIONS

**I. APPLICABILITY.**

1. Applicability.

1.1 These General Power Contract Provisions (Provisions) shall be a part of the contract to which they are attached. In the event these Provisions differ from requirements of the contract, specific terms set forth in the contract shall prevail.

1.2 If the Contractor has member utilities which are either directly or indirectly receiving benefits from the contract, then the Contractor shall require such members to comply with Provisions 10, 17, 18, 19, 29, 30, 36, 43, 44, and 45 of these General Power Contract Provisions.

**II. DELIVERY OF SERVICE PROVISIONS.**

2. Character of Service.

Electric energy supplied or transmitted under the contract will be three-phase, alternating current, at a nominal frequency of sixty (60) hertz (cycles per second).

3. Use of Capacity or Energy in Excess of Contract Obligation.

The Contractor is not entitled to use Federal power, energy, or capacity in amounts greater than the Western contract delivery obligation in effect for each type of service provided for in the contract except with the approval of Western. Unauthorized overruns of contract delivery obligations shall be subject to charges specified in the contract or the applicable rate schedules. Overruns shall not establish any continuing right thereto and the Contractor shall cease any overruns when requested by Western, or in the case of authorized overruns, when the approval expires, whichever occurs first. Nothing in the contract shall obligate Western to increase any delivery obligation. If additional power, energy, or capacity is not available from Western, the responsibility for securing additional power, energy, or capacity shall rest wholly with the Contractor.

4. Continuity of Service.

Electric service will be supplied or transmitted continuously except for: (1) fluctuations, interruptions, or reductions due to uncontrollable forces, as defined in Provision 34 (Uncontrollable Forces) herein, (2) fluctuations, interruptions, or reductions due to operation of devices installed for power system protection; and (3) temporary fluctuations, interruptions, or reductions, which, in the opinion of the party supplying the service, are necessary or desirable for the purposes of maintenance, repairs, replacements, installation of equipment, or investigation and inspection. The party supplying service, except in case of emergency, will give the party to whom service is being provided reasonable advance notice of such temporary interruptions or reductions and will remove the cause thereof with diligence.

5. Multiple Points of Delivery.

When electric service is supplied at or transmitted to two or more points of delivery under the same rate schedule, said rate schedule shall apply separately to the service supplied at or transmitted to each point of delivery; Provided, That where the meter readings are considered separately, and during abnormal conditions, the Contractor's system is interconnected between points of delivery such that duplication of metered power is possible, the meter readings at each affected point of delivery will be adjusted to compensate for duplication of power demand recorded by meters at alternate points of delivery due to abnormal conditions which are beyond the Contractor's control or temporary conditions caused by scheduled outages.

6. Metering.

6.1 The total electric power and energy supplied or transmitted under the contract will be measured by metering equipment to be furnished and maintained by Western, a designated representative of Western, or where situations deem it appropriate as determined by Western, by the Contractor or its agent(s). In the event metering equipment is furnished and maintained by the Contractor or its agent(s) and the equipment is used for billing and other accounting purposes by Western, the Contractor shall ensure that the metering equipment complies with applicable metering policies established by Western.

6.2 Meters shall be secured by appropriate security measures and meters shall not be accessed except when the meters are to be inspected, tested, adjusted, or repaired. Representatives of affected parties shall be afforded reasonable opportunity to be present upon such occasions. Metering equipment shall be inspected and tested each year by the party responsible for meter maintenance, unless a different test interval is determined in accordance with good utility practices by an applicable regional metering policy, or as agreed upon by the parties. Meters shall also be tested at any reasonable time upon request by a party hereto, or by an affected supplemental power supplier, transmission agent, or control area operator. Any metering equipment found to be damaged, defective, or inaccurate shall be repaired and readjusted or replaced by the party responsible for meter maintenance as soon as practicable. Meters found with security breaches shall be tested for tampering and, if appropriate, meter readings shall be adjusted by Western pursuant to Provision 6.3 below.

6.3 Except as otherwise provided in Provision 6.4 hereof, should any meter that is used by Western for billing or other accounting purposes fail to register accurately, the electric power and energy supplied or transmitted during the period of failure to register accurately, shall, for billing purposes, be estimated by Western from the best available information.

6.4 If inspections and tests of a meter used by Western for billing or other accounting purposes disclose an error exceeding 2 percent, or a lesser range in error as agreed upon by the parties, then a correction based upon the inaccuracy found shall be made to the service records for the period of inaccuracy as determined by Western. If the period of inaccuracy cannot be determined, the inaccuracy shall be assumed to have existed during the entire monthly billing period immediately preceding the billing period in which the inspection or test was made and the resulting correction shall be made accordingly.

6.5 Any correction in billing or other accounting information that results from a correction in meter records shall be made in a subsequent monthly bill rendered by Western to the Contractor. Payment of such bill shall constitute full adjustment of any claim between the parties arising out of inaccurate metering equipment.

7. Existence of Transmission Service Contract.

If the contract provides for Western to furnish services using the facilities of a third party, the obligation of Western shall be subject to and contingent upon the existence of a transmission service contract granting Western rights to use such facilities. If Western acquires or constructs facilities which would enable it to furnish direct service to the Contractor, Western, at its option, may furnish service over its own facilities.

8. Conditions of Transmission Service.

8.1 When the electric service under the contract is furnished by Western over the facilities of others by virtue of a transmission service arrangement, the power and energy will be furnished at the voltage available and under the conditions which exist from time to time on the transmission system over which the service is supplied.

8.2 Unless otherwise provided in the contract or applicable rate schedule, the Contractor shall maintain a power factor at each point of delivery from Western's transmission agent as required by the transmission agent.

8.3 Western will endeavor to inform the Contractor from time to time of any changes planned or proposed on the system over which the service is supplied, but the costs of any changes made necessary in the Contractor's system, because of changes or conditions on the system over which the service is supplied, shall not be a charge against or a liability of Western.

8.4 If the Contractor, because of changes or conditions on the system over which service under the contract is supplied, is required to make changes on its system at its own expense in order to continue receiving service under the contract, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to making such changes, but not thereafter.

8.5 If Western notifies the Contractor that electric service provided for under the contract cannot be delivered to the Contractor because of an insufficiency of capacity available to Western in the facilities of others over which service under the contract is supplied, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to the date on which said capacity ceases to be available to Western, but not thereafter.

9. Multiple Points of Delivery Involving Direct and Indirect Deliveries.

When Western has provided line and substation capacity under the contract for the purpose of delivering electric service directly to the Contractor at specified direct points of delivery and also has agreed to absorb transmission service allowance or discounts for deliveries of energy over other system(s) to indirect points of delivery and the Contractor shifts any of its load served under the contract from direct delivery to indirect delivery, Western will not absorb the transmission service costs on such shifted load until the unused capacity, as determined solely by Western, available at the direct delivery points affected is fully utilized.

10. Construction, Operation, and Maintenance of Contractor's Power System.

The Contractor shall, and, if applicable, shall require each of its members or transmission agents to construct, operate, and maintain its power system in a manner which, as determined by Western, will not interfere with the operation of the system of Western or its transmission agents over which electric services are furnished to the Contractor under the contract, and in a manner which will coordinate with the protective relaying and other protective arrangements of the system(s) of Western or Western's transmission agents. Western may reduce or

discontinue furnishing services to the Contractor if, after notice by Western, the Contractor fails or refuses to make such changes as may be necessary to eliminate an unsatisfactory condition on the Contractor's power system which is determined by Western to interfere significantly under current or probable conditions with any service supplied from the power system of Western or from the power system of a transmission agent of Western. Such a reduction or discontinuance of service will not relieve the Contractor of liability for any minimum charges provided for in the contract during the time said services are reduced or discontinued. Nothing in this Provision shall be construed to render Western liable in any manner for any claims, demands, costs, losses, causes of action, damages, or liability of any kind or nature arising out of or resulting from the construction, operation, or maintenance of the Contractor's power system.

### III. RATES, BILLING, AND PAYMENT PROVISIONS.

#### 11. Change of Rates.

Rates applicable under the contract shall be subject to change by Western in accordance with appropriate rate adjustment procedures. If at any time the United States promulgates a rate changing a rate then in effect under the contract, it will promptly notify the Contractor thereof. Rates shall become effective as to the contract as of the effective date of such rate. The Contractor, by written notice to Western within ninety (90) days after the effective date of a rate change, may elect to terminate the service billed by Western under the new rate. Said termination shall be effective on the last day of the billing period requested by the Contractor not later than two (2) years after the effective date of the new rate. Service provided by Western shall be paid for at the new rate regardless of whether the Contractor exercises the option to terminate service.

#### 12. Minimum Seasonal or Annual Capacity Charge.

When the rate in effect under the contract provides for a minimum seasonal or annual capacity charge, a statement of the minimum capacity charge due, if any, shall be included in the bill rendered for service for the last billing period of the service season or contract year as appropriate, adjusted for increases or decreases in the contract rate of delivery and for the number of billing periods during the year or season in which service is not provided. Where multiple points of delivery are involved and the contract rate of delivery is stated to be a maximum aggregate rate of delivery for all points, in determining the minimum seasonal or annual capacity charge due, if any, the monthly capacity charges at the individual points of delivery shall be added together.

#### 13. Billing and Payment.

13.1 Western will normally issue bills to the Contractor for services furnished during the preceding month within ten (10) days after the end of the billing period.

13.2 If Western is unable to issue timely monthly bill(s), Western may elect to render estimated bill(s). Such estimated bill(s) shall be subject to the same payment provisions as final bill(s), and any applicable adjustments will be shown on a subsequent monthly bill.

13.3 Payments of bills issued by Western are due and payable by the Contractor before the close of business on the twentieth (20th) calendar day after the date of issuance of each bill or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday. Bills shall be considered paid when payment is received by Western. Bills will be paid electronically or via the Automated Clearing House method of payment unless a written request to make payments by mail is submitted by the Contractor and approved by Western. Should Western agree to accept payments by mail, these payments will be accepted as timely and without assessment of the charge provided for in Provision 14 (Nonpayment of Bills in Full When Due) if a United States

Post Office first class mail postmark indicates the payment was mailed at least three (3) calendar days before the due date.

13.4 The parties agree that net billing procedures will be used for payments due Western by the Contractor and for payments due the Contractor by Western for the sale or exchange of electric power and energy, use of transmission facilities, operation and maintenance of electric facilities, and other services. Payments due one party in any month shall be offset against payments due the other party in such month, and the resulting net balance shall be paid to the party in whose favor such balance exists. The parties shall exchange such reports and information that either party requires for billing purposes. Net billing shall not be used for any amounts due which are in dispute.

14. Nonpayment of Bills in Full When Due.

14.1 Bills not paid in full by the Contractor by the due date specified in Provision 13 (Billing and Payment) hereof shall bear a charge of five hundredths percent (0.05%) of the principal sum unpaid for each day payment is delinquent, to be added until the amount due is paid in full. Western will also assess a fee of twenty-five dollars (\$25.00) for processing a late payment. Payments received will first be applied to the charges for late payment assessed on the principal and then to payment of the principal.

14.2 Western shall have the right, upon not less than fifteen (15) days advance written notice, to discontinue furnishing the services specified in the contract for nonpayment of bills in full when due, and to refuse to resume such services so long as any part of the amount due remains unpaid. Such a discontinuance of service will not relieve the Contractor of liability for minimum charges during the time service is so discontinued. The rights reserved to Western herein shall be in addition to all other remedies available to Western either by law or in equity, for the breach of any of the terms hereof.

15. Adjustments for Fractional Billing Period.

The demand or capacity charge and minimum charges shall each be proportionately adjusted when fractional billing periods are applicable under this contract. A fractional billing period can occur: 1) at the beginning or end of electric service; 2) at the beginning or end of irrigation pumping service each year; 3) for a fractional billing period under a new rate schedule; or 4) for fractional periods due to withdrawals of electric services. The adjustment will be made based on the ratio of the number of hours that electric service is available to the Contractor in such fractional billing period, to the total number of hours in the billing period involved. Energy billing shall not be affected by fractional billing periods.

16. Adjustments for Curtailments to Firm Service.

16.1 Billing adjustments will be made if firm electric service is interrupted or reduced because of conditions on the power system of the United States for periods of one (1) hour or longer in duration each. Billing adjustments will not be made when such curtailment of electric service is due to a request by the Contractor or a discontinuance of electric service by Western pursuant to Provision 14 (Nonpayment of Bills In Full When Due). For purposes of billing adjustments under this Provision, the term power system of the United States shall include transmission facilities used under contract but not owned by the United States.

16.2 The total number of hours of curtailed firm electric service in any billing period shall be determined by adding: (1) the sum of the number of hours of interrupted electric service to (2) the product, of each reduction, of: the number of hours reduced electric service and the percentage by which electric service was reduced below the delivery obligation of Western at the time of each said reduction of electric service. The demand or capacity charge and applicable minimum charges shall each be proportionately adjusted in the ratio that

the total number of hours of electric service determined to have been curtailed bears to the total number of hours in the billing period involved.

16.3 The Contractor shall make written claim within thirty (30) days after receiving the monthly bill, for adjustment on account of any curtailment of firm electric service, for periods of one (1) hour or longer in duration each, alleged to have occurred that is not reflected in said bill. Failure to make such written claim, within said thirty-day (30-day) period, shall constitute a waiver of said claim. All curtailments of electric service, which are due to conditions on the power system of the United States, shall be subject to the terms of this Provision; Provided, That withdrawal of power and energy under the contract shall not be considered a curtailment of electric service.

#### IV. **POWER SALES PROVISIONS.**

17. Resale of Firm Electric Service (Wholesale Sales for Resale).

The Contractor shall not sell any firm electric power or energy supplied under the contract to any electric utility customer of the Contractor for resale by that utility customer; Provided, That the Contractor may sell the electric power and energy supplied under the contract to its members on condition that said members not sell any of said power and energy to any customer of the member for resale by that customer.

18. Distribution Principles.

The Contractor agrees that the benefits of firm electric power or energy supplied under the contract shall be made available to its consumers at rates that are established at the lowest possible level consistent with sound business principles, and that these rates will be established in an open and public manner. The Contractor further agrees that it will identify the costs of firm electric power or energy supplied under the contract and power from other sources to its consumers upon request. The Contractor will demonstrate compliance with the requirements of this Provision to Western upon request.

19. Contract Subject to Colorado River Compact.

Where the energy sold under the contract is generated from waters of the Colorado River system, the contract is made upon the express condition and with the express covenant that all rights under the contract shall be subject to and controlled by the Colorado River Compact approved by Section 13 (a) of the Boulder Canyon Project Act of December 21, 1928, 43 U.S.C. §§ 617a-e, and the parties to the contract shall observe and be subject to and controlled by said Colorado River Compact in the construction, management, and operation of the dams, reservoirs, and powerplants from which electrical energy is to be furnished by Western to the Contractor under the contract, and in the storage, diversion, delivery, and use of water for the generation of electrical energy to be delivered by Western to the Contractor under the contract.

#### V. **FACILITIES PROVISIONS.**

20. Design Approval.

All facilities, construction, and installation by the Contractor pursuant to the contract shall be subject to the approval of Western. Facilities interconnections shall normally conform to Western's current "General Requirements for Interconnection," in effect upon the signing of the contract document providing for each interconnection, copies of which are available from Western. At least ninety (90) days, unless otherwise agreed,

prior to the date the Contractor proposes to commence construction or to incur an obligation to purchase facilities to be installed pursuant to the contract, whichever date is the earlier, the Contractor shall submit, for the approval of Western, detailed designs, drawings, and specifications of the facilities the Contractor proposes to purchase, construct, and install. The Contractor assumes all risks for construction commenced or obligations to purchase facilities incurred prior to receipt of approval from Western. Western review and approval of designs and construction work in no way implies that Western is certifying that the designs meet the Contractor's needs.

21. Inspection and Acceptance.

Western shall have the right to inspect the materials and work furnished by the Contractor, its agents, employees, and subcontractors pursuant to the contract. Such inspections shall be at reasonable times at the work site. Any materials or work that Western determines is defective or not in accordance with designs, drawings, and specifications, as approved by Western, shall be replaced or modified, as directed by Western, at the sole expense of the Contractor before the new facilities are energized.

22. As-Built Drawings.

Within a reasonable time, as determined by Western, after the completion of construction and installation of facilities pursuant to the contract, the Contractor shall submit to Western marked as-built prints of all Western drawings affected by changes made pursuant to the contract and reproducible drawings the Contractor has prepared showing facilities of Western. The Contractor's drawings of Western facilities shall use drawing title blocks, drawing numbers, and shall be prepared in accordance with drafting standards all as approved by Western. Western may prepare, revise, or complete said drawings and bill the Contractor if the Contractor fails to provide such drawings to Western within a reasonable time as determined by Western.

23. Equipment Ownership Markers.

23.1 The Contractor shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the United States right-of-way or in Western substations pursuant to the contract which are owned by the Contractor, by permanently affixing thereto suitable markers clearly identifying the Contractor as the owner of said equipment and facilities.

23.2 If requested by the Contractor, Western shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the Contractor's right-of-way or in the Contractor's substations pursuant to the contract which are owned by the United States, by permanently affixing thereto suitable markers clearly identifying the United States as the owner of said equipment and facilities.

24. Third-Party Use of Facilities.

The Contractor shall notify Western of any proposed system change relating to the facilities governed by the contract or allowing third-party use of the facilities governed by the contract. If Western notifies the Contractor that said system change will, as solely determined by Western, adversely affect the operation of Western's system the Contractor shall, at no cost to Western, provide a solution to said adverse effect acceptable to Western.

25. Changes to Western Control Facilities.

If at any time during the term of the contract, Western determines that changes or additions to control, relay, or communications facilities are necessary to maintain the reliability or control of Western's transmission

system, and said changes or additions are entirely or partially required because of the Contractor's equipment installed under the contract, such changes or additions shall, after consultation with the Contractor, be made by Western with all costs or a proportionate share of all costs, as determined by Western, to be paid by the Contractor. Western shall notify the Contractor in writing of the necessary changes or additions and the estimated costs to be paid by the Contractor. If the Contractor fails to pay its share of said estimated costs, Western shall have the right, after giving sixty (60) days' written notice to the Contractor, to terminate the applicable facility installation provisions to the contract and require the removal of the Contractor's facilities.

26. Modification of Western Facilities.

Western reserves the right, at any time, to modify its facilities. Western shall keep the Contractor informed of all planned modifications to Western facilities which impact the facilities installation pursuant to the contract. Western shall permit the Contractor to change or modify its facilities, in a manner satisfactory to and at no cost or expense to Western, to retain the facilities interconnection pursuant to the contract. At the Contractor's option, Western shall cooperate with the Contractor in planning alternate arrangements for service which shall be implemented at no cost or expense to Western. The Contractor and Western shall modify the contract, as necessary, to conform to the new facilities arrangements.

27. Transmission Rights.

If the contract involves an installation which sectionalizes a Western transmission line, the Contractor hereby agrees to provide a transmission path to Western across such sectionalizing facilities at no cost or expense to Western. Said transmission path shall be at least equal, in terms of capacity and reliability, to the path in the Western transmission line prior to the installation pursuant to the contract.

28. Construction and Safety Procedures.

28.1 The Contractor hereby acknowledges that it is aware of the hazards inherent in high-voltage electric lines and substations, and hereby assumes full responsibility at all times for the adoption and use of necessary safety measures required to prevent accidental harm to personnel engaged in the construction, inspection, testing, operation, maintenance, replacement, or removal activities of the Contractor pursuant to the contract. The Contractor and the authorized employees, agents, and subcontractors of the Contractor shall comply with all applicable safety laws and building and construction codes, including the provisions of Chapter 1 of the Power System Operations Manual, entitled Power System Switching Procedure, and the Occupational Safety and Health Administration regulations, Title 29 C.F.R. §§ 1910 and 1926, as amended or supplemented. In addition to the safety program required herein, upon request of the United States, the Contractor shall provide sufficient information to demonstrate that the Contractor's safety program is satisfactory to the United States.

28.2 The Contractor and its authorized employees, agents, and subcontractors shall familiarize themselves with the location and character of all the transmission facilities of Western and interconnections of others relating to the work performed by the Contractor under the contract. Prior to starting any construction, installation, or removal work, the Contractor shall submit a plan of procedure to Western which shall indicate the sequence and method of performing the work in a safe manner. No work shall be performed by the Contractor, its employees, agents, or subcontractors until written authorization to proceed is obtained from Western.

28.3 At all times when the Contractor, its employees, agents, or subcontractors are performing activities of any type pursuant to the contract, such activities shall be under supervision of a qualified employee, agent, or subcontractor of the Contractor who shall be authorized to represent the Contractor in all matters pertaining to the activity being performed. The Contractor and Western will keep each other informed of the names of their designated representatives at the site.

28.4 Upon completion of its work, the Contractor shall remove from the vicinity of the right-of-way of the United States all buildings, rubbish, used materials, concrete forms, and other like material belonging to the Contractor or used under the Contractor's direction, and in the event of failure to do so the same may be removed by Western at the expense of the Contractor.

28.5 In the event the Contractor, its employees, agents, or subcontractors fail to comply with any requirement of this Provision, or Provision 21 (Inspection and Acceptance) herein, Western or an authorized representative may issue an order to stop all or any part of the work until such time as the Contractor demonstrates compliance with the provision at issue. The Contractor, its employees, agents, or subcontractors shall make no claim for compensation or damages resulting from such work stoppage.

29. Environmental Compliance.

Facilities installed under the contract by any party shall be constructed, operated, maintained, replaced, transported, and removed subject to compliance with all applicable laws, including but not limited to the National Historic Preservation Act of 1966, 16 U.S.C. §§ 470x-6, the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347, the Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544, and the Archaeological Resources Protection Act of 1979, 16 U.S.C. §§ 470aa-470mm, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, as well as any other existing or subsequent applicable laws, regulations, and executive orders.

30. Responsibility for Regulated Materials.

When either party owns equipment containing regulated material located on the other party's substation, switchyard, right-of-way, or other property, the equipment owner shall be responsible for all activities related to regulated materials in such equipment that are necessary to meet the requirements of the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-9675, the Oil Pollution Act of 1990, 33 U.S.C. §§ 2702-2761, the Clean Water Act, 33 U.S.C. §§ 1251-1387, the Safe Drinking Water Act, 42 U.S.C. §§ 300f-j26, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, and any other existing or subsequent applicable laws, regulations, and executive orders. Each party shall label its equipment containing regulated material in accordance with appropriate laws and regulations. If the party owning the equipment does not perform activities required under appropriate laws and regulations within the time frame specified therein, the other party may perform or cause to be performed the required activities after notice to and at the sole expense of the party owning the equipment.

**VI. OTHER PROVISIONS.**

31. Authorized Representatives of the Parties.

Each party to the contract, by written notice to the other, shall designate the representative(s) who is (are) authorized to act in its behalf with respect to those matters contained in the contract which are the functions and responsibilities of the authorized representatives of the parties. Each party may change the designation of its authorized representative(s) upon oral notice given to the other, confirmed promptly by written notice.

32. Effect of Section Headings.

Section headings or Provision titles appearing in the contract or these General Power Contract Provisions are inserted for convenience only and shall not be construed as interpretations of text.

33. Operating Guidelines and Procedures.

The parties to the contract may agree upon and put into effect from time to time, such other written guidelines and procedures as may be required in order to establish the methods of operation of the power system to be followed in the performance of the contract.

34. Uncontrollable Forces.

Neither party to the contract shall be considered to be in default in performance of any of its obligations under the contract, except to make payment as specified in Provision 13 (Billing and Payment) herein, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require a party to settle any strike or labor dispute in which it may be involved. Either party rendered unable to fulfill any of its obligations under the contract by reason of an uncontrollable force shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.

35. Liability.

35.1 The Contractor hereby agrees to indemnify and hold harmless the United States, its employees, agents, or contractors from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the Contractors', its employees', agents', or subcontractors' construction, operation, maintenance, or replacement activities under the contract.

35.2 The United States is liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 1346(c), 2401(b), 2402, 2671, 2672, 2674-2680, as amended or supplemented.

36. Cooperation of Contracting Parties.

If, in the operation and maintenance of their respective power systems or electrical equipment and the utilization thereof for the purposes of the contract, it becomes necessary by reason of any emergency or extraordinary condition for either party to request the other to furnish personnel, materials, tools, and equipment for the accomplishment thereof, the party so requested shall cooperate with the other and render such assistance as the party so requested may determine to be available. The party making such request, upon receipt of properly itemized bills from the other party, shall reimburse the party rendering such assistance for all costs properly and reasonably incurred by it in such performance, including administrative and general expenses, such costs to be determined on the basis of current charges or rates used in its own operations by the party rendering assistance. Issuance and payment of bills for services provided by Western shall be in accordance with Provisions 13 (Billing

and Payment) and 14 (Nonpayment of Bills in Full When Due) herein. Western shall pay bills issued by the Contractor for services provided as soon as the necessary vouchers can be prepared which shall normally be within twenty (20) days.

37. Transfer of Interest in Contract or Change in Preference Status.

37.1 No voluntary transfer of the contract or of the rights of the Contractor under the contract shall be made without the prior written approval of the Administrator of Western. Any voluntary transfer of the contract or of the rights of the Contractor under the contract made without the prior written approval of the Administrator of Western may result in the termination of the contract; Provided, That the written approval of the Administrator shall not be unreasonably withheld; Provided further, That if the Contractor operates a project financed in whole or in part by the Rural Utilities Service, the Contractor may transfer or assign its interest in the contract to the Rural Utilities Service or any other department or agency of the Federal Government without such prior written approval; Provided further, That any successor to or assignee of the rights of the Contractor, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the provisions and conditions of the contract to the same extent as though such successor or assignee were the original Contractor under the contract; and, Provided further, That the execution of a mortgage or trust deed, or judicial or foreclosure sales made thereunder, shall not be deemed voluntary transfers within the meaning of this Provision.

37.2 The Contractor shall maintain its status as an entity eligible for preference in Western's sale of Federal power pursuant to Reclamation law, as amended and supplemented.

37.3 Western shall give the Contractor written notice of Western's proposed determination that the Contractor has violated Provision 37.1 and Western's proposed action in response to the violation.

37.4 The Contractor shall have 120 days after receipt of Western's notice provided under Provision 37.3 to submit a written response to Western. The Contractor may also make an oral presentation to the Administrator during this 120-day period.

37.5 At any time during this process, the Contractor and Western may agree upon corrective action to resolve Western's proposed determination that the Contractor is in violation of Provision 37.1.

37.6 Within 30 days of receipt of the Contractor's written response provided under Provision 37.4, Western will notify the Contractor in writing of its final decision. The Administrator's written notice will include the intended action, the effective date thereof, and the reasons for taking the intended action. Implementation of the Administrator's action shall take place no earlier than 60 days from the Contractor's receipt of such notice.

37.7 Any successor to Western shall be subject to all the provisions and conditions of the contract to the same extent as though such successor were an original signatory to the contract.

37.8 Nothing in this Provision shall preclude any right to judicial review available to the Contractor under Federal law.

38. Choice of Law and Forum.

Federal law shall control the obligations and procedures established by this contract and the performance and enforcement thereof. The forum for litigation arising from this contract shall exclusively be a Federal court of the United States, unless the parties agree to pursue alternative dispute resolution.

39. Waivers.

Any waivers at any time by either party to the contract of its rights with respect to a default or any other matter arising under or in connection with the contract shall not be deemed a waiver with respect to any subsequent default or matter.

40. Notices.

Any notice, demand, or request specifically required by the contract or these Provisions to be in writing shall be considered properly given when delivered in person or sent by postage prepaid registered or certified mail, commercial delivery service, facsimile, electronic, prepaid telegram, or by other means with prior agreement of the parties, to each party's authorized representative at the principal offices of the party. The designation of the person to be notified may be changed at any time by similar notice. Where facsimile or electronic means are utilized for any communication covered by this Provision, the sending party shall keep a contemporaneous record of such communications and shall verify receipt by the other party.

41. Contingent Upon Appropriations and Authorization.

41.1 Where activities provided for in the contract extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under the contract. In case such appropriation is not made, the Contractor hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.

41.2 In order to receive and expend funds advanced from the Contractor necessary for the continued performance of the obligations of the United States under the contract, additional authorization may be required. In case such authorization is not received, the Contractor hereby releases the United States from those contractual obligations and from all liability due to the lack of such authorization.

42. Covenant Against Contingent Fees.

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, Western shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

43. Contract Work Hours and Safety Standards.

The contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 3701, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 3701-3708, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

44. Equal Opportunity Employment Practices.

Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into the contract, except that Indian Tribes and tribal organizations may apply Indian preference to the extent permitted by Federal law.

45. Use of Convict Labor.

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the contract except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

Western Area Power Administration  
Federal Power Customer  
Creditworthiness Procedures

1.0 OVERVIEW OF CREDITWORTHINESS PROCEDURES

The purpose of the Western Area Power Administration (Western) Creditworthiness Procedures (Creditworthiness Procedures) is to implement appropriate risk mitigation procedures related to business conducted with Firm Electric Service (FES) Customers. Western supplies power and energy pursuant to its statutory mission outlined in Reclamation Law. Historically, Western's FES Customers have been very creditworthy and these Creditworthiness Procedures recognize that Western's risk of non-payment from FES Customers is low. Western shall conduct a creditworthiness review of the FES Customer using information provided by the FES Customer from the data collection process (Section 2.0) and pursuant to Section 4.1 or at the request of the FES Customer using the criteria outlined in Section 3.1. Therefore, existing FES Customers with a timely payment history as of the date these Creditworthiness Procedures are included in a contract, shall be deemed to have satisfied the creditworthiness requirements at that time and be subject to re-evaluation pursuant to Section 4.1. As a result of Western's creditworthiness review or in response to the FES Customer's notice of any event that may cause an adverse material change in its financial condition, Western may require the FES Customer to provide or increase its provided financial assurances before service will be initiated or continued (Section 4.2).

2.0 ADVERSE MATERIAL CHANGE

The FES Customer must give Western written notice of any event that may cause an adverse material change in its financial condition within five (5) business days of the occurrence of the event. An event that may cause an adverse material change in financial condition may include, but is not limited to the following:

- (a) For entities that initially met the creditworthiness requirements under these Creditworthiness Procedures and are not required to post financial assurance to Western, a change in financial condition that results in a downgrade of long or short-term debt rating by a major bond rating agency or being placed on a credit watch with negative implications by a major credit rating agency; or
- (b) The resignation of key officer(s); or
- (c) The issuance of a regulatory order or the filing of a lawsuit that could materially adversely impact current or future results; or

- (d) A default in payment obligations; or
- (e) Any new investigations, arbitrations, contingencies or changes in affiliate relationships; or
- (f) The filing of a voluntary or involuntary petition to institute bankruptcy proceedings under the United States Bankruptcy Code or any successor statute, or the filing to institute any proceedings under state law concerning actual or potential insolvency.

### 3.0 CREDIT EVALUATION

#### 3.1 Determining Creditworthiness

FES Customers are considered creditworthy and granted unsecured credit if all of the following exist:

- (a) The FES Customer is not in default of its payment obligations under its contract for firm electric service with Western; and
- (b) The FES Customer is not on Western's subscribed rating service watch list due to FES Customer being rated below investor grade, currently at or below "BB" on Standards & Poor Ratings; and
- (c) The FES Customer is not in default of any payment obligation to Western; and
- (d) The FES Customer is not in bankruptcy proceedings; and
- (e) The FES Customer or its guarantor is a federal, state, or other governmental agency/entity and its financial obligations are backed by the full faith and credit of the United States, state or other governmental entity as applicable: and/or
- (f) The FES Customer has the ability to set rates to cover outstanding obligations.

#### 3.2 Notification

Western shall notify the FES Customer in writing whether relevant financial assurance is required within five (5) business days after determining that a change in creditworthiness status or change in financial assurance is required as determined by review under Section 2.0 or other reviews performed pursuant to Section 4.1.

Western shall, upon the FES Customer's written request, provide a written explanation of the basis for Western's determination via email within five (5) business days for any (a) non-creditworthy determination; (b) changes in creditworthiness status; or (c) changes in requirements for financial assurances.

### 3.3 Establishing Credit Limits

If a FES Customer is determined to be creditworthy, no credit limit will be established. For non-creditworthy FES Customers, the credit limit for total outstanding energy sales will equal five (5) months of total estimated service charges under the FES Customer's contract for electric service, as determined by Western. If at any time Western determines according to these Creditworthiness Procedures that the FES Customer is not able to fully support its credit exposure based solely on its financial viability, Western may require collateral be provided.

### 3.4 Secured Credit

#### 3.4.1 Posting Collateral

If a FES Customer fails to provide the collateral as defined in Section 3.4.3 and required by Western within five (5) business days of notification, or as agreed to in writing between the FES Customer and Western, the FES Customer will be deemed in default of its contract for electric service and subject to discontinuing service in accordance with *Nonpayment of Bills in Full When Due* of the General Power Contract Provisions, as provided for under its contract for electric service.

#### 3.4.2 Required Amount of Collateral

Given Western's current billing practices and payment terms, the required amount of security will be based on the maximum total estimated service charge for outstanding services provided by Western, but not yet paid by the FES Customer, plus an advance of fifteen (15) days of estimated service. In addition to this collateral, Western may also require the FES Customer to prepay fifteen (15) days of estimated service on a fifteen (15) day pre-payment cycle until the FES Customer becomes creditworthy under these guidelines. This represents the potential value of services rendered prior to termination of service in the event of a default arising from a failure of nonpayment.

#### 3.4.3 Acceptable Collateral includes

- (a) Prepayment for service; or

- (b) An unconditional and irrevocable letter of credit as security to meet the FES Customer's responsibilities and obligations. If this form of collateral is used, it will comply with the requirements as stated in the Uniform Customs and Practice for Documentary Credits; or
- (c) An irrevocable and unconditional corporate guaranty from an entity that satisfies the creditworthiness requirements.

#### 4.0 RE-EVALUATION

##### 4.1 Timeframe

Western will review its credit evaluation for each FES Customer annually. Timely payments by the FES Customer will be sufficient evidence for re-affirming the current credit arrangements, barring the reporting of any event that may cause an adverse material change. Western, at its sole discretion, may conduct additional reviews and updates of its credit evaluation in response to new facts or occurrences that may bear upon the FES Customer's creditworthiness due to an event that may cause an adverse material change in financial condition of the FES Customer, or if the FES Customer fails to pay invoices from Western on time. These reviews will follow the procedures set forth in Section 3.1.

##### 4.2 Change in Limit/Collateral

As a result of Western's creditworthiness review or in response to the FES Customer's notice of any event that may cause an adverse material change in its financial condition, Western may adjust the FES Customer's credit limit and collateral requirements in accordance with Section 3.3 and Section 3.4, respectively. If required by Western, additional collateral must be posted in accordance with Section 3.4.1.

The FES Customer may make reasonable requests for Western to re-evaluate the FES Customer's creditworthiness pursuant to the criteria detailed in Section 3.1.

#### 5.0 RIGHT TO DRAW UPON FINANCIAL ASSURANCES UPON DEFAULT

Western shall have the right to liquidate, or draw upon, all or a portion of the FES Customer's financial assurance(s) in order to satisfy the FES Customer's total net obligation to Western under the contract for electric service. The FES Customer shall within five (5) business days, or as agreed to in writing between

Western and the FES Customer, replace any liquidated or drawn-upon financial assurances.

## 6.0 SUSPENSION OF SERVICE

### 6.1 Notification

Notwithstanding any other provision of a contract with Western, if the FES Customer fails to provide the entirety of required financial assurances described in Section 3.4.3 when due under these Creditworthiness Procedures, Western may suspend service to the FES Customer fifteen (15) days after Western's notification to such FES Customer.

### 6.2 Length of Suspension

The suspension of service shall continue for the duration of the circumstances that entitle Western to suspend service.

### 6.3 Obligation to Pay

A FES Customer is not obligated to pay for service that is not provided as a result of a suspension of service, however, a discontinuation of service under the contract will not relieve the FES Customer of liability for minimum charges during the time service is so discontinued.

## 7.0 CONTESTING CREDITWORTHINESS PROCEDURE DETERMINATIONS

The FES Customer may contest any creditworthiness determination by Western by submitting a written notice to Western explaining its reasons for contesting the determination. The notice must include the name of a designated senior representative authorized to represent the FES Customer. The written notice of a dispute of a determination by Western under these Creditworthiness Procedures shall be referred to the Chief Financial Officer of Western for resolution on an informal basis with the designated senior representative of the FES Customer as promptly as practicable. It is expected that a final written decision from Western will be issued within thirty (30) days, or such other period as the FES Customer and Western may mutually agree upon.