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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Defendant
Rocky Mountain Power

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

XRG-DP-7, XRG-DP-8, XRG-DP-9, XRG-DP-10, LLCs,

Complainant,

v.

PACIFICORP, DBA ROCKY MOUNTAIN
POWER,

Defendant.

Case No. PAC-E-10-08

ROCKY MOUNTAIN POWER'S
LEGAL BRIEF

Pursuant to IDAPA Rule 31.01.01.057, and Idaho Public Utilities Commission (the "Commission") Order No. 32600, PacifiCorp, dba Rocky Mountain Power (the "Company" or "RMP"), respectfully submits its legal brief in support of its position that XRG is not entitled to pre-March 16, 2010, published avoided cost rates.

I. PROCEDURAL BACKGROUND

XRG filed a formal complaint with the Idaho Public Utilities Commission ("Commission") on July 29, 2010. The Company timely answered. Both parties completed two rounds of discovery, and the Company responded in part and objected in part to XRG's third round of production requests. On February 7, 2011, the Company

moved to stay further discovery and for summary judgment. XRG opposed summary judgment and moved to continue discovery. The Commission heard oral argument. On May 18, 2012, the Commission issued Order No. 32553, dismissing XRG's complaint after finding:

an assertion that XRG intends to enter into a contract with Rocky Mountain Power, without actions in furtherance of its intent, is not sufficient to establish entitlement to pre-March 2010 published avoided cost rates.¹

On June 8, 2012, XRG filed its petition for reconsideration. XRG argued that the Commission's decision to dismiss the complaint was an error and that XRG needed an additional opportunity to obtain and present evidence.² XRG asserted that "[t]he Commission erred by applying an arbitrary and unreasonable legal standard."³ XRG also complained that the Commission has not ruled on its request for leave to amend its complaint.⁴ The Company opposed XRG's petition on the grounds that the additional evidence XRG sought was not relevant to the Commission's essential finding that XRG failed to obligate itself to power purchase agreements (PPAs) prior to March 16, 2010. The Company also argued that the Commission's determination on the merits without a hearing was proper because it was based on a complete written record, the credibility of which was not at issue.⁵

¹ *XRG-DP-7, XRG-DP-8, XRG-DP-9, XRG-DP-10 v. PacifiCorp, dba Rocky Mountain Power*, IPUC Case No. PAC-E-10-08, Order No. 32553, 10 (2012).

² *XRG-DP-7, XRG-DP-8, XRG-DP-9, XRG-DP-10, LLC's Petition for Reconsideration of Commission Order No. 32553*, 17 (June 8, 2012) ("XRG's Petition").

³ *Id.*

⁴ *Id.* at 19.

⁵ *Rocky Mountain Power's Answer to XRG's Petition for Reconsideration of Commission Order No. 32553*, IPUC Case No. PAC-E-10-08, 14 (June 18, 2012) ("PacifiCorp's Answer Opposing Reconsideration"). XRG's Petition argued (on page 18) that credibility was at issue in Order No. 32553, citing to pages 9-10 of the Order. Rocky Mountain Power responded, on pages 13-15 of PacifiCorp's Answer Opposing

On July 26, 2012, the Commission issued Order No. 32600.⁶ The Commission found that “in the interest of allowing XRG the information that it argues is necessary to support its complaint, we now grant XRG’s narrowed request to complete discovery.”⁷ The Commission directed the Company to respond to specified questions in XRG’s Third Production Request by August 17, 2012. The Company provided XRG with timely responses to those questions specified by the Commission. The Commission directed the parties to file simultaneous legal briefs on September 7, 2012. The briefs are “a final opportunity on reconsideration to assert a position regarding the merits of the underlying XRG complaint, i.e., whether and to what extent XRG is entitled to pre-March 16, 2010, published avoided cost rates.”⁸

II. DISCUSSION

Nothing in XRG’s Motion for Reconsideration, or the Commission’s Order on Reconsideration, Order No. 32588, changes the basic conclusion of the Commission’s Order dismissing XRG’s Complaint, Order No. 32553: based on the totality of the evidence and arguments presented, XRG, as previously recognized by the Commission, is not entitled to pre-March 16, 2010, published avoided cost rates.

Reconsideration, that the passage on pages 9-10 challenged by XRG constituted harmless error at worst, and the Commission could clarify in its final order on reconsideration that this passage was not material to its holding in Order No. 32553.

⁶ *XRG-DP-7, XRG-DP-8, XRG-DP-9, XRG-DP-10 v. PacifiCorp, dba Rocky Mountain Power*, IPUC Case No. PAC-E-10-08, Order No. 32600 (2012).

⁷ *Id.* at 1.

⁸ *Id.* at 2.

A. Motion for Summary Judgment and Reply to XRG's Answer

The Company will not recite again for the Commission all of the arguments contained in its Answer and Affirmative Defenses (filed August 23, 2010), Motion for Summary Judgment (filed February 7, 2011), Reply to XRG's Answer (filed March 9, 2011), and the Answer to XRG's Petition for Reconsideration (filed June 19, 2012); however a short summary of the main arguments is recited below. The Company incorporates by reference into this brief all of the above referenced documents.

As the Company noted in its Motion for Summary Judgment, a Qualifying Facility ("QF") is not entitled to grandfathered rate treatment unless it has established a legally enforceable obligation, entered into a power purchase contract prior to the rate change, or filed a meritorious complaint for grandfathered rates before rates change.⁹

According to Idaho case law, a meritorious complaint must demonstrate that a QF "pursued a contract with diligence and competence, that it was substantially mature and ready, willing and able to sign a contract and that "but for" the intransigence [the utility, the QF] was otherwise entitled and would have had a power purchase contract prior to the [date the rate changed]."¹⁰

As more fully discussed in the Company's Motion for Summary Judgment, XRG's complaint is without merit for at least three reasons: (1) XRG failed to pursue a contract with diligence and competence. XRG never responded to the draft PPA proposed by the Company; (2) XRG's proposal was fatally immature because it did not have transmission agreements or interconnection agreements necessary to deliver power to the Company's system at Brady before the rate change, nor did it even have a viable plan for

⁹ *A.W. Brown Co., Inc. v. Idaho PUC*, 121 Idaho 812, 817 (1992).

¹⁰ *Island Power I*, 1994 Ida. PUC Lexis 59, *15.

interconnecting and wheeling its output to Brady; and (3) XRG filed its complaint a full four months after the rate change took effect, and XRG should be barred from filing a complaint for grandfathered rates so long after a rate change.

Each of these arguments was accepted by the Commission in Order No. 32553, as described below in Section B. Further, as described in Section C, none of the responses to data requests provided to XRG by RMP on August 17, 2012, affect the Commission's findings in Order No. 32553.

B. Order No. 32553.

Although the Commission did not grant RMP's Motion for Summary Judgment, the Commission specifically found that, "based on the totality of the evidence and arguments presented, XRG is not entitled to pre-March 16, 2010, published avoided cost rates."¹¹

Following a summary of the evidence presented, the Commission made a number of specific findings regarding the evidence presented in the record:

First, the Commission found that there was ample evidence in the record to support a Commission decision regarding the underlying, disputed matters alleged in XRG's complaint.¹²

Next, the Commission found no evidence that RMP was refusing to negotiate in March 2009, and that XRG's assertion that RMP's conduct was responsible for the lapsed BPA interconnection requests was without merit.¹³

¹¹ Order No. 32553 at 2.

¹² *Id.* at 7.

¹³ *Id.*

The Commission also found no evidence that “XRG ever returned the draft PPA with modifications and/or edits -- much less three additional PPAs that XRG asserted it would reproduce and submit for Rocky Mountain Power’s review.”¹⁴ Perhaps most critically, the Commission specifically found no evidence that XRG took sufficient action to obligate itself to deliver energy to RMP for any of the four projects contemplated.¹⁵ The Commissions also noted that, although a legally enforceable obligation can be incurred prior to memorialization in a contract, under the circumstances and facts presented, no terms of any PPA were ever negotiated or discussed. The Commission specifically noted that “XRG failed to take sufficient action to create an obligation on its part.”¹⁶

Finally, the Commission found RMP’s position that transmission was constrained was reasonable.¹⁷ The record lacked sufficient evidence to show that RMP impeded negotiations by failing to acknowledge the Populus to Terminal upgrades, and the Commission specifically stated “[t]he parties had not yet begun active negotiations on the project.”¹⁸

Each of the Commission’s findings is consistent with argument put forth in the Company’s motion for summary judgment, that XRG failed to take sufficient action to create a legally enforceable obligation. In addition, as discussed below, there is no new evidence as a result of the additional production requests the Company responded to on

¹⁴ *Id.* at 9.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 10.

August 17, 2012, that would change the Commission's findings, or require that the Commission set aside its dismissal of XRG's Complaint.

C. Production Request Responses

The Company provided XRG with 12 additional production request responses, as required by the Commission's Notice of Scheduling, Order No. 32600, issued July 26, 2012; Request Nos. 24, 25, 26, 27, 31, 32(b), (d), (e), 33(a), 34, 35, 40, 45 and 47. The requests and responses are attached hereto as Exhibit A.

The response to Request No. 24 contains correspondences from James Carkulis to Bruce Griswold wherein Mr. Carkulis agreed to move forward with only one PPA on account of Rocky Mountain Power's concerns regarding transmission availability at XRG's proposed points of delivery at Brady or Borah.¹⁹

The response to Request No. 25 states that PacifiCorp does not have sufficient information to ascertain XRG's "belief" relative to transmission availability. As shown in the response to Request No. 24, XRG did not consistently request PPAs for all four projects. In an e-mail communication dated April 1, 2009 from James Carkulis to Bruce Griswold, XRG instructed PacifiCorp to move forward with only XRG-DP10 "until we figure out the rest."

The response to Request No. 26 describes how the Company requested information regarding transmission availability for Network Resource designation of the XRG projects. As noted, PacifiCorp Merchant (Commercial and Trading/C&T) used publicly available information from OASIS to determine available transmission capacity for XRG QF requests at the proposed point of delivery. In this case, PacifiCorp

¹⁹ See April 1, 2009, email from Mr. Carkulis to Mr. Griswold.

Merchant did not contact or apply to PacifiCorp Transmission for Network Resource designation because it did not have an executed PPA with XRG during the referenced time period. The Company did not offer XRG PPAs contingent upon the availability of transmission because XRG never expressed any interest in a contingent PPA. In fact, XRG never returned any comments on the draft PPAs PacifiCorp had provided to XRG. Thus, PacifiCorp had no direction from XRG on how it wanted to proceed.

The response to Request No. 27 explains that the revised determination of transmission availability did not result from physical upgrades or physical changes to the transmission system. The revised determination resulted from a modification to include Path C as a Point of Service (for network reservations) on OASIS July 15, 2010, which did not result from physical upgrades or physical changes to the transmission system. The circumstance that changed was a modification made to include Path C as a Point of Service (for Network reservations) on OASIS. The definition for "point of service" is a point in a path for scheduling purposes only. Unlike a point of receipt or a point of delivery, a transmission request cannot originate or end at a point of service. As was explained in the Company's response to data request 21 (b), Idaho Power's decision to split the postings for Borah and Brady resulted in the need to also separate the two physical points on PacifiCorp's OASIS. Splitting the points, allowed the Company to identify and post some additional firm scheduling flexibility for both paths independently.

The response to Request No. 31 denies XRG's request for admission that RMP did not offer the option to XRG to make the requested PPAs "contingent upon receiving Network Resource status." As noted, all of the Company's QF purchases are Network

Resources. In addition, an email delivered to Mr. Carkulis on May 11, 2009, was provided showing that the Company did not offer the option to make the requested PPAs contingent upon receiving Network Resource status. The Company does not have a legal duty to tell XRG how to configure its projects. If XRG had returned the draft PPAs with a request for a contingent PPA, the Company would have acted on that request. XRG is a sophisticated business entity; it has access to the PacifiCorp OATT and had the ability to understand its rights under PURPA and the OATT. PacifiCorp did not have a duty to provide legal advice to XRG regarding its rights under the OATT or PURPA and PacifiCorp should not be held to such a standard in this proceeding. XRG never provided comments on the draft PPA PacifiCorp had provided and this left PacifiCorp without direction on how XRG wanted to proceed.

The response Request No. 32(b), (d), (e) explains that the Company owns the 250 MW Point-to-Point ("PTP") Brady import transmission to fulfill contractual obligations with Arizona Public Service Company (APS) in the 1995 Restated Transmission Agreement. In this agreement, the Company granted APS 250 MW of firm transfer rights from Brady to Four Corners/Glen Canyon Substations. The APS and PacifiCorp contract executions done in 1995 were a combination of asset change, power exchange, power sale, exchange of transmission rights, and transmission agreements. APS contract execution in 1995 was before Open Access Transmission Tariff and, therefore, there was no distinction between PTP and Network. With regard to PTP transmission reservations, there is no restriction on the utilization as there is for Network transmission. The Company also explained that the Company has used the import capability to fulfill the APS obligations described earlier in this response. When not used by APS, the Company

will use the import capability to transfer Network Resources and non-Network Resources into the Utah system.

The response to Request No. 33(a) admitted that the non-firm option was not communicated to XRG. Since the XRG QF resources would be Network Resources, firm transmission is required and the non-firm option was dismissed as a non-viable option. PacifiCorp communicated on multiple occasions that firm transmission is a requirement.²⁰

The Response to Request No. 34 explained that emails between Jim Portouw and John Younie do not constitute studies; they contain summaries of evaluation and other information deemed necessary to manage potential transmission alternatives and issues. PacifiCorp's evaluation of the feasibility of XRG projects did not include separate OASIS requests for Network Resource status because XRG failed to pursue negotiations on the PPAs or provide comments on the draft PPA. As noted in the emails, there remained a need to request Network Resource status, and the process for obtaining Network Resources designation is described in the response to XRG Data Request 26. The Company also explained that the primary information used in the response was historical knowledge of transmission topology, business practices, existing transmission reservations and APS contractual obligations. The existing topology, business practices and transmission reservations were available on PacifiCorp OASIS. APS contractual obligations would be embedded in FERC filed agreements. As explained in Data Response 26; PacifiCorp Merchant does not request specific Network Resource designation until a PPA with the resource is executed. PacifiCorp did not contact or

²⁰ Please refer to the Company's response to XRG Data Request 24; specifically Attachment XRG 24.

apply to PacifiCorp Transmission for Network Resource designation because it did not have an executed PPA with XRG during the referenced time period (and XRG had never expressed an interest in pursuing other contract forms (e.g., contingent contract) that may have been available).

The Company also stated Mr. Portouw does not recall any consultation with PacifiCorp Transmission on the requests. The Company also explained that it did not consider future transmission upgrades, and that evaluation of XRG resource at Brady was based on dates in the Term section of the project summary stated in the emails.

The response to Request No. 35, as previously explained in the response to Request No. 26, explained Company policy regarding the level of inquiry it will conduct during QF contract negotiations to determine whether the Company will have adequate transmission capacity to integrate a QF delivery to commence on a future date, and the Company policy regarding system impact studies.

The response to Request No. 40 explained the basis on which Mr. Griswold concluded that, "In order to accommodate your request to deliver the full 235 MW, PacifiCorp merchant must request network upgrades from PacifiCorp Transmission, and we understand that such upgrades likely would take four to five years to complete." The response was based on PacifiCorp Merchant using publicly available information from OASIS to determine available transmission capacity for XRG QF requests at the proposed point of delivery. The response also explains that Mr. Griswold was not denying a transmission service request by stating that capacity was unavailable because transmission service requests for QF resource integration are the responsibility of the merchant function accepting delivery from the resource, not C&T.

The response to Request No. 45 explains that IRP pricing was not provided for the two proposed 78 MW XRG projects because, as explained in an email dated March 23, 2009, there was only 23MW of available transmission capacity at XRG's point of delivery; therefore, there was only sufficient capacity to do one of XRG's published rate QF requests. In providing this response, in no way was PacifiCorp implying it did not have a PURPA purchase obligation. Instead the response reflected communications between the Company and XRG. On April 1, 2009, Jim Carkulis asked PacifiCorp in an email to proceed with one PPA. On September 18, he asked PacifiCorp to proceed with all six projects. In reply, PacifiCorp requested a meeting to discuss the remaining five projects; it also asked XRG to refresh its January 2009 project description and provide comments on the draft PPA provided. A meeting between PacifiCorp Energy, PacifiCorp Transmission, and XRG was held November 10, 2009. At that meeting, it appeared that XRG's four projects that qualified for Idaho's published avoided cost (XRG-DP-7, XRG-DP-8, XRG-DP-9, XRG-DP-10) might not require system upgrades if XRG moved back its scheduled commercial online date. XRG did not express an interest in pursuing either 78 MW project, so PacifiCorp had no reason to provide pricing for the 78 MW projects.²¹ PacifiCorp waited for XRG to return comments on its draft PPA or otherwise pursue negotiations, but XRG did not contact PacifiCorp Merchant again until March 11, 2010,

²¹ The two 78-MW projects referred to in Request No. 45 are not a part of this complaint. In fact the Company understands that XRG may have disaggregated and contracted to sell output from at least one of the 78-MW projects, the Jack Ranch Wind Farm, to Idaho Power Company. *See In the Matter of the Complaint and Petition of Idaho Power Company for a Declaratory Order Regarding the Firm Energy Sales Agreements and Generator Interconnection Agreements with Cottonwood Wind Park, LLC; Deep Creek Wind Park, LLC, Rogerson Flats Wind Park, LLC; and Salmon Creek Wind Park, LLC*, IPUC Case No. IPC-E-12-20, *Joint Motion for Approval of Settlement* (Aug. 14, 2012)(Similar to the Jack Ranch Wind Farm that applied to Company, these four small wind projects are owned by Exergy, have a combined capacity of 80 MW, are located near Rogerson, Idaho, and are referred to, collectively, as the "Jack Ranch" projects).

when it told PacifiCorp Merchant in an email that it would send mark-ups on four PPAs, but never did.

The response to Request No. 47 admits that Rocky Mountain Power requested that the cost of the Populus to Terminal project be placed in rate base in PAC-E-10-07. The response further explains that the Populus to Terminal project increased southbound capability across Path C into Utah with the upgrades adding 650 MW of capacity southbound, and that all the additional Path C capacity, including the incremental 650 MW of capability is currently subscribed to network service requirements and is not available for firm purchase on PacifiCorp's OASIS. More important to XRG's complaint the upgrades did not affect the availability of capacity from Brady or Borah to Path C other than providing scheduling flexibility from Brady into Utah and from Borah into Populus. Per PacifiCorp's OASIS website, at the time there was no available transmission capacity from Brady into Utah or from Borah into Utah, but there was posted capability from Borah to Populus.

D. Evidence in the Record Supports Commission's Prior Decision

Despite XRG's best efforts to use pejorative language in its Requests for Production to imply wrongdoing on the part of RMP, the responses provide no additional evidence that could lead the Commission to conclude that XRG established a legally enforceable obligation, or that RMP failed to negotiate in March 2009, or otherwise was responsible for XRG's failure to obtain transmission rights.

PacifiCorp doesn't know what XRG will argue in its brief, but nothing will change the facts that have been established and recognized by the Commission in this proceeding. PacifiCorp and XRG met in November 2009 and at that meeting PacifiCorp

thought the parties had identified a path for moving forward. However, XRG never updated its application and failed to provide any comments to the draft PPA PacifiCorp provided. Nor did XRG make any definite expression of its intent to bind itself to a legally enforceable obligation at any time prior to March 16, 2010. Nor did XRG file its complaint until more than four months after the rate change date. The facts of this case all show, as previously concluded by the Commission, that XRG, failed to take those actions necessary to establish a legally enforceable obligation prior to March 16, 2010.²²

The Company hereby respectfully reserves its rights to respond to arguments made by XRG in its final brief in the event the Commission finds that it should withdraw or modify its Final Order dismissing XRG's complaint. It would be prejudicial for the Commission to grant XRG relief without allowing PacifiCorp the opportunity to respond to XRG's arguments.

III. CONCLUSION

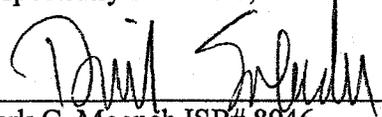
Because the responses to the data requests provided to XRG on August 17, 2012, contain no evidence that would contradict the Commission's finding in Order No. 32553, that, based on the totality of the evidence and arguments presented, XRG is not entitled to

²² The Company has already briefed extensively why XRG's actions prior to March 16, 2010 were insufficient to create a legally enforceable obligation. All of the Company's arguments are fully consistent with the Commission's most recent application of the legally enforceable obligation standard, in Order No. 32635, issued September 7, 2012 in *Grouse Creek Wind Park LLC and Grouse Creek Wind Park II, LLC v. Idaho Pub. Util. Comm.*, IPUC Case Nos. IPC-E-10-61 and IPC-E-10-62. In Order No. 32635, the Commission found that the QF did not establish a legally enforceable obligation where, prior to the rate change date: (1) the parties were still finalizing details of the PPAs; (2) QF failed to provide location information needed by utility to verify compliance with the one-mile separation rule and provide a proper legal description; (3) QF had not confirmed whether power would be delivered to the utility via BPA or PacifiCorp transmission; and (4) QF had not provided a final scheduled commercial operation date. Order No. 32636, pp. 15-16. If the Commission applies these same criteria to XRG, it is clear that XRG's projects were much further away from creating a legally enforceable obligation prior March 16, 2010, than were the Grouse Creek projects, prior to December 14, 2010.

pre-March 16, 2010, published avoided cost rates, the Commission should dismiss XRG's Complaint with prejudice.

Dated this 7th day of September 2012.

Respectfully submitted,



Mark C. Moench ISB# 8946
Daniel E. Solander ISB# 8931
Rocky Mountain Power

Attorneys for Rocky Mountain Power

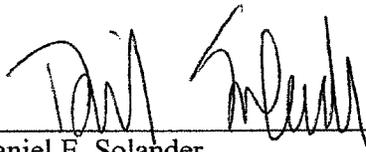
CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of September, 2012, a true copy of the foregoing document was sent to the following:

Jean M. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington Street
Boise, Idaho 83702-5983
(hand delivery)

Peter J. Richardson
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Daniel E. Solander
Senior Counsel

Exhibit A

PAC-E-10-08/Rocky Mountain Power
August 16, 2012
XRG Data Request 24

XRG Data Request 24

Please identify and provide evidence of any correspondence from XRG to Rocky Mountain Power wherein XRG agreed to forego PPA execution on account of Rocky Mountain Power's concerns regarding transmission availability at XRG's proposed points of delivery at Brady or Borah.

Response to XRG Data Request 24

Please refer to Attachment XRG 24.

Recordholder: Bruce Griswold
Sponsor: To Be Determined

Attachment XRG 24

Snow, Michael

From: Griswold, Bruce {Mkt Function}
Sent: Tuesday, April 13, 2010 2:59 PM
To: James Carkulis
Cc: Ken Kaufmann
Subject: FW: Exergy Development Group, LLC
Attachments: 13Apr2010 ltr to P Richardson re Exergy PPAs.pdf; ATT00001..htm

James

Please see the attached letter in response to your letter dated March 12, 2010 regarding your QF projects.
Please call if you wish to discuss.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: Ken Kaufmann [<mailto:kaufmann@klaw.com>]
Sent: Tuesday, April 13, 2010 11:53 AM
To: Peter Richardson; Greg Adams
Cc: Griswold, Bruce {Mkt Function}; Younie, John; Charles von Reis
Subject: Exergy Development Group, LLC

Peter,
Please call me if you have any questions.
Sincerely,
Ken

LOVINGER | KAUFMANN LLP

825 NE Multnomah • Suite 925
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Ken Kaufmann
kaufmann@lklaw.com

April 13, 2010

Via U.S. Mail and electronic mail

Mr. Peter Richardson
Richardson & O'Leary PLLC
P.O. Box 7218
Boise, ID 83707
Peter@richardsonandoleary.com

Re: Exergy's Inquiry Regarding Power Purchase Agreements

Dear Mr. Richardson:

On behalf of PacifiCorp Energy's merchant business unit (PacifiCorp Merchant, or PacifiCorp), I am writing you—PURPA legal counsel for Exergy Development Group, LLC ("Exergy")—concerning your March 12, 2010 letter, in which you requested a commitment from PacifiCorp to buy output from four wind projects named XRG-DP7, XRG-DP8, XRG-DP9, and XRG-DP10 ("Projects DP7-DP10") at the then-current avoided cost rates for small (under 10 average megawatt) qualifying facilities (QFs). I understand the following regarding Projects DP7-DP10: The planned facilities will be similar wind QFs with design capacities of 19.8 MWs. They will be located in Cassia County, interconnected to Idaho Power's system in Idaho Power's service territory, and will deliver net output to PacifiCorp at its Borah or Brady substation. They are scheduled to become commercially operational December 31, 2010. I understand, further, that Exergy owns two more projects, Jack Ranch Wind Park and JR-1, 78.0 megawatts each, from which it also wishes to sell net output to PacifiCorp at either Borah or Brady substation. Together, the six projects total 235 MW of new capacity.

To date there have been multiple communications between PacifiCorp and Exergy regarding the above projects, starting with Exergy's request for four standard and two non-standard power purchase agreements (PPAs) in January 2009. PacifiCorp agreed, in March 2009, to offer Exergy one standard PPA; in April 2009, James Carkulis asked that PacifiCorp prepare a PPA for Project DP-10; and PacifiCorp did so, in May 2009. PacifiCorp has not offered to purchase net output from any remaining Exergy project because PacifiCorp lacks the ability to accept more than approximately 23 MW of new capacity at either its Borah or Brady substations and XRG has not offered to pay for system upgrades necessary to accept more than 23 MW.

When, after being told of PacifiCorp's transmission system limitations, Exergy renewed its request for additional PPAs, in September 2009, PacifiCorp responded, in an October 2, 2009 email to James Carkulis, with a substantive explanation of its position. That email explained

Mr. Peter Richardson

April 13, 2010

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that PacifiCorp can only accept 20-25 megawatts of new generation at Borah or Brady; that Exergy's net output required network upgrades to PacifiCorp's system, and that PacifiCorp believes that it is not obligated to purchase Exergy's net output at prices (inclusive of any required system upgrade paid for by PacifiCorp) that exceed PacifiCorp's administratively determined Idaho avoided cost. PacifiCorp offered to continue discussing the remaining XRG projects with Exergy by working with Exergy to identify and address potential fatal flaws.

To date, Exergy has not clearly indicated that it seeks more than a mere option to deliver net output to PacifiCorp. Nor has it indicated that it would agree to pay for any system upgrades on PacifiCorp's system necessary to move its net output to PacifiCorp's system load. Nor has Exergy, to PacifiCorp's knowledge, obtained transmission service agreements with Idaho Power for any of its projects to move the power to Borah or Brady. PacifiCorp presumes that Exergy continues to look to multiple utilities for the best possible deal for its projects' output.¹

On November 10, 2009, PacifiCorp Merchant and Exergy participated in a telephone call, in which a planned upgrade to its transmission system in the vicinity of Borah and Brady substations, was discussed. However PacifiCorp disagrees with Mr. Carkulis's reliance on that phone call to conclude that PacifiCorp Transmission will be able to accommodate all Exergy projects after completion by PacifiCorp Transmission of the upgrade in mid-2011. Before PacifiCorp Merchant will agree to purchase more than 20 MW of new capacity at Borah or Brady, it must make a formal request to PacifiCorp Transmission and receive confirmation from PacifiCorp Transmission that transmission is available. PacifiCorp Transmission will charge PacifiCorp Merchant approximately \$15,000 per project to perform a system integration study. At that point, PacifiCorp Merchant will know when and if sufficient capacity will be available at Borah or Brady to accept more than 20 MW of new capacity. If capacity is available, PacifiCorp will buy whatever output Exergy wishes to sell. If capacity is not available, PacifiCorp will still buy Exergy's output, provided that Exergy pays for system upgrades necessary for PacifiCorp to move Exergy's power from Borah or Brady to PacifiCorp's load.

On March 16, 2010, the PUC issued Order No. 31025, which contains new avoided cost rates for PURPA contracts. Because the PUC made the new rates applicable to PURPA contracts executed on or after March 15, 2010, the new rates would apply to any PPA between PacifiCorp and Exergy for QFs under 10 average megawatts. This includes XRG-DP10, for which Exergy received a draft PPA in May 2009 but has not yet sent responsive comment to PacifiCorp. In order to move forward with the XRG-DP10 PPA, PacifiCorp requests that Exergy provide confirmation that the existing project information provided in early 2009 is still valid. If it is still valid, please let PacifiCorp know as soon as possible and PacifiCorp will prepare and send Exergy an updated PPA that conforms to PacifiCorp's current practice (including a requirement that the QF post delay security). If the project configuration has been updated, then please provide any updates to the project.

¹ Exergy's self-certifications for its projects list Idaho Power only, or else Idaho Power, Avista, and PacifiCorp (Rocky Mountain Power) as potential purchasers of Net Output.

Mr. Peter Richardson
April 13, 2010
Page 3

If, in light of the recent avoided cost rate revisions, Exergy still wishes to pursue PPAs for its remaining projects, it will need to demonstrate its ability to deliver net output to PacifiCorp's system via firm transmission. PacifiCorp recommends a meeting with Exergy to discuss: 1) XRG's firm transmission arrangements for its six projects; and 2) a process for determining whether new transmission capacity scheduled to be installed in mid-2011 will enable PacifiCorp to purchase Exergy's power without additional system upgrades (and therefore pay Exergy the standard avoided cost rates established by the Idaho PUC), or whether additional system upgrades will be required, and if so, what will be the resulting cost to Exergy. I understand that this proposal may not be the quick and final solution your client prefers; however PacifiCorp remains willing to work through the challenges presented by Exergy's six projects if Exergy is committed to working with PacifiCorp on a deal that does not require PacifiCorp to purchase output at a price that exceeds its avoided cost.

PacifiCorp requests that all written communications from Exergy's attorney be copied to my email address, above. If you, or any other attorney for Exergy, wish to talk with PacifiCorp regarding this matter, please schedule an appointment in advance so that PacifiCorp may have an attorney present. PacifiCorp continues to welcome direct communication between Exergy's non-attorney representatives. PacifiCorp will hold off responding further to Exergy's request until Exergy has clarified its intent regarding the matters raised in this letter.

Sincerely,



Ken Kaufmann
Attorney for PacifiCorp

cc (via e-mail):

James Carkulis, Exergy Development Group LLC
Greg Adams, Richardson & O'Leary
Bruce Griswold, PacifiCorp Energy
Jeff Erb, PacifiCorp Energy
Daniel Solander, Rocky Mountain Power

Snow, Michael

From: Griswold, Bruce {Mkt Function}
Sent: Friday, October 02, 2009 5:02 PM
To: James T. Carkulis
Subject: FW: Exergy QF PPA requests
Attachments: PURPA Contract Request - XRG-DP10.pdf; 01Oct09 draft Idaho MAG Off-System PPA CLEAN.doc

Importance: High

Dear James:

I have been in receipt of your September 18 email, in which you voiced your frustration at receiving only one of six power purchase agreements (PPAs) you requested from PacifiCorp for six planned wind projects you are developing, located outside of PacifiCorp's service territory and delivered to our system at Brady substation. I apologize for the delayed response but in order to adequately address your concerns, I talked through the transmission situation again with our transmission traders at PacifiCorp merchant and also discussed our PURPA obligations with legal counsel.

As I explained previously, the point of delivery you propose (Brady substation) are remote sites that interconnect with PacifiCorp's system where the Company's ability to assimilate delivered power and move it elsewhere on our system is very limited. As I mentioned, PacifiCorp estimates that the available transmission capacity in its current configuration at Brady can only accept approximately 20 to 25 MW of new generation on a firm basis. In order to accommodate your request to deliver the full 235 MW, PacifiCorp merchant must request network upgrades from PacifiCorp Transmission, and we understand that such upgrades likely would take four to five years to complete.

In addition to the physical obstacles to accommodating your request, PacifiCorp believes that it has the right to specify a point of delivery onto its system that is reasonable in terms of its needs, and PacifiCorp reserves that right. See *Water Power Co., Inc. v. PacifiCorp*, 99 Or App 125, 781 P2d 860 (1989). If you think PacifiCorp's position is wrong, please explain your position, and the basis therefore.

If PacifiCorp does have an obligation to accept output at Borah and Brady, PacifiCorp will expect you to pay for all resulting interconnection costs including network upgrades (either through an adjustment to avoided costs or through payment to PacifiCorp Transmission) such that the ultimate cost to PacifiCorp's customers is not greater than the cost avoided by PacifiCorp not constructing or purchasing an equivalent resource located on a non-constrained portion of its system. See 18 C.F.R. §§ 292.101(b)(7)), 292.306(a). Again, if you disagree with this principle I urge you to explain your position and basis therefore.

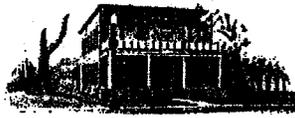
Your six proposed projects would wheel wind energy to a PacifiCorp point of receipt from which we have very limited available transmission capacity to move the power to our network load. These projects from both large and small qualifying facilities, raise several legal and technical questions for which PacifiCorp currently is seeking answers. PacifiCorp has indicated it can accept a single standard Idaho QF project at Brady and provided a draft PPA on May 11, 2009 that incorporated all Idaho orders through that date. You have indicated that you would pursue project XRG-DP-10, LLC for this PPA. I have attached the project specs to ensure that is still the case. I have also attached our updated draft PPA with the off-system addendum to reflect scheduled deliveries versus as generated deliveries. Please provide comments on this draft for your XRG-DP-10, LLC project including any updated project information. We have not provided draft PPAs for the remaining five projects since it will require substantial time and effort and, given the challenges identified above, PacifiCorp does not want to undertake this effort if your projects have fatal flaws such as the

available transmission issue identified. It was my understanding from our previous communications that you were agreeable to move forward on a single project and investigate alternatives, if any, for the other five; however your September 18 email could be interpreted as a demand for a draft PPA pursuant to PURPA.

I would be happy to meet with you and your team at a mutually convenient time to discuss your remaining five projects and determine a plan for addressing each of those in a timely manner should it be determined that you can deliver to an alternate point of delivery where PacifiCorp can receive and deliver the power to its network load on a firm basis or overcome the transmission capacity constraint at Brady. Let know if you would like to schedule a conference call or meeting. Thanks.

Regards,
Bruce Griswold

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax



RICHARDSON & O'LEARY, PLLC
ATTORNEYS AT LAW

Peter Richardson

Tel: 208-938-7901 Fax: 208-938-7904
peter@richardsonandoleary.com
P.O. Box 7218 Boise, ID 83707 - 515 N. 27th St. Boise, ID 83702

January 21, 2009

Bruce Griswold
John Younie
825 NW Multnomah
Portland, Oregon 97232
Via overnight delivery

Re: PURPA Contract for XRG-DP-10, LLC

Dear Bruce and John:

I visited with you via e-mail communications a while back regarding a PURPA agreement for the above reference company. Please consider this to be a follow up request for an Idaho jurisdictional standard twenty year QF agreement with non-levelized rates. The project will be less than 30 average monthly MW and should therefore qualify for the Idaho PUC's published rates.

The first operation date is December 31, 2010.

The project is located in Cassia County, Idaho. Estimated production data and a location map is attached for your review. Also attached is a copy of the FERC Notice of Self Certification for this project, which together with the map and production data should be sufficient for you to provide my client with a power purchase agreement. Because the project will be interconnect with BPA facilities and deliver to your Brady Substation in Southern Idaho, there is no need for us to engage Rocky Mountain Power for an interconnection agreement.

Thank you for your prompt response and please give me a call if you have any questions.

Sincerely:

Pete Richardson
Attorney for XRG-DP-10, LLC

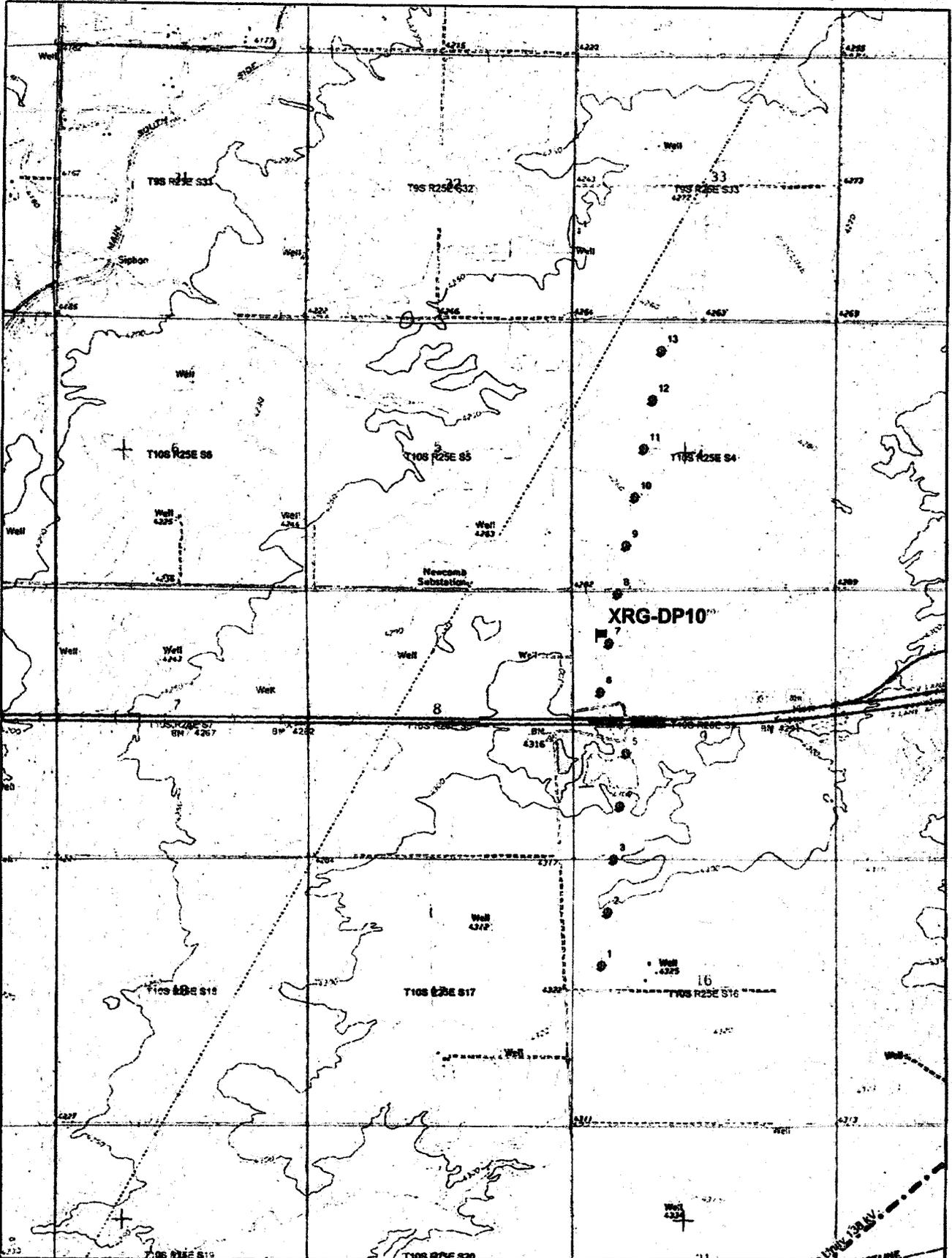
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Cover

Malta, XRG-DP10 (Newcomb West)

Vestas V90, 1.8 WTG

Nameplate: 19.8 MW

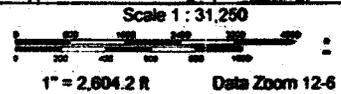
		Month												
		1	2	3	4	5	6	7	8	9	10	11	12	Average
Hour	0	5,208	6,206	9,121	9,333	6,990	8,584	5,506	5,926	4,739	7,061	6,902	6,471	6,837
	1	4,643	6,579	7,274	9,357	7,409	8,738	6,299	5,404	4,375	5,982	6,788	6,821	6,639
	2	4,791	6,684	6,556	8,768	6,865	8,634	6,263	5,867	4,683	5,196	7,070	7,201	6,548
	3	4,742	5,046	6,303	7,929	6,402	8,703	6,528	5,266	3,836	6,057	7,652	7,701	6,347
	4	5,253	5,443	6,716	7,317	7,160	8,849	6,979	6,289	4,894	5,579	7,625	7,436	6,628
	5	5,474	5,198	5,934	7,441	7,073	8,610	7,031	7,102	5,116	5,427	7,393	7,551	6,612
	6	6,435	5,409	5,421	7,060	7,125	6,675	7,012	5,816	6,404	6,285	7,462	7,439	6,545
	7	6,245	4,743	5,088	6,278	5,708	5,571	6,015	5,056	6,118	6,120	8,211	8,221	6,114
	8	5,650	5,199	5,172	6,113	5,779	4,646	4,288	2,584	3,187	4,473	7,289	7,322	5,142
	9	5,318	3,831	5,071	6,306	6,224	4,989	3,595	2,579	2,317	2,675	6,523	6,282	4,643
	10	4,887	3,560	6,015	6,575	6,869	4,788	3,482	2,392	2,747	2,709	5,050	6,211	4,607
	11	4,692	3,592	6,238	6,166	7,034	5,536	3,471	2,761	3,029	3,346	4,445	6,198	4,709
	12	5,485	3,518	7,069	6,301	6,316	5,327	3,906	3,027	2,948	3,682	4,508	6,195	4,857
	13	5,581	3,794	8,070	7,284	6,164	4,936	4,649	3,422	3,205	4,174	4,183	6,732	5,183
	14	5,202	4,384	8,504	6,489	7,369	6,109	5,453	4,166	3,311	4,422	4,403	6,255	5,506
	15	5,173	4,151	8,482	7,122	7,486	6,951	6,133	4,935	3,590	4,520	4,896	5,538	5,748
	16	4,938	4,138	9,384	8,041	7,502	7,099	7,612	6,911	3,871	5,822	4,788	5,861	6,331
	17	5,214	3,934	9,973	7,693	7,007	7,026	8,350	7,345	4,094	6,588	4,720	6,795	6,562
	18	6,128	5,398	9,709	8,243	6,861	6,676	8,562	7,873	4,879	7,796	5,727	6,936	7,066
	19	6,093	6,800	10,621	9,249	7,692	7,012	6,795	7,760	6,228	8,450	5,969	7,364	7,503
	20	6,094	6,723	10,700	10,145	8,486	8,339	5,972	8,691	6,866	8,521	5,729	7,241	7,792
	21	5,693	5,923	9,626	10,536	7,476	9,069	6,140	7,636	6,704	7,410	6,499	6,366	7,423
	22	5,871	6,757	9,565	9,405	7,922	8,607	5,743	6,885	5,813	8,168	6,499	6,691	7,327
	23	5,761	6,737	9,501	9,131	8,437	8,282	6,058	6,353	5,924	7,599	6,844	7,038	7,305
Average		5,440	5,156	7,755	7,845	7,057	7,073	5,910	5,502	4,537	5,753	6,132	6,828	



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FERC Form No. 556
18 C.F.R. § 131.80

**CERTIFICATION OF QUALIFYING FACILITY STATUS FOR AN EXISTING OR A
PROPOSED SMALL POWER PRODUCTION OR COGENERATION FACILITY**

INFORMATION ABOUT COMPLIANCE

Compliance with the information collection requirements established by the FERC Form No. 556 is required to obtain and maintain status as a qualifying facility. *See* 18 C.F.R. § 131.80 and Part 292. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUBMITTING COMMENTS ON PUBLIC REPORTING BURDEN

The estimated burden for completing FERC Form No. 556, including gathering and reporting information, is 4 hours for self-certifications and 38 hours for applications for Commission certification. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to the following: Michael Miller, Office of the Executive Director (ED-34), Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426; and Desk Officer for FERC, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (oira_submission@omb.eop.gov). Include the Control No. 1902-0075 in any correspondence.

GENERAL INSTRUCTIONS

Complete this form by replacing bold text below with responses to each item, as required.

PART A: GENERAL INFORMATION TO BE SUBMITTED BY ALL APPLICANTS

1a. Full name of applicant: [Note: Applicant is the legal entity submitting this form, not the individual employee making the filing. Generally, the Applicant will be a company, corporation or organization, unless the facility is owned directly by an individual or individuals.]

XRG-DP10, LLC

Primary Activity: Independent Power Producer, renewable electrical generation

Docket Number assigned to the immediately preceding submittal filed with the Commission in connection with the instant facility, if any:

none

Purpose of instant filing (self-certification or self-recertification [18 C.F.R. § 292.207(a)(1)], or application for Commission certification or recertification [18 C.F.R. §§ 292.207(b) and (d)(2)]):

Self-certification

1b. Full address of applicant:

**1424 Dodge Ave.
Helena, MT 59601**

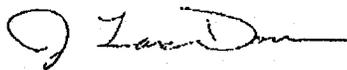
1c. Indicate the owner(s) of the facility (including the percentage of ownership held by any electric utility or electric utility holding company, or by any persons owned by either) and the operator of the facility. Additionally, state whether or not any of the non-electric utility owners or their upstream owners are engaged in the generation or sale of electric power, or have any ownership or operating interest in any electric facilities other than qualifying facilities. In order to facilitate review of the application, the applicant may also provide an ownership chart identifying the upstream ownership of the facility. Such chart should indicate ownership percentages where appropriate.

Exergy Development Group – Idaho, LLC

Exergy Development Group – Idaho, LLC is solely owned by Exergy Development Group, LLC, a Montana limited liability company.

Exergy Development Group, LLC is not comprised of any ownership by a public or private utility.

1d. Signature of authorized individual evidencing accuracy and authenticity of information provided by applicant: [Note: A signature on a filing shall constitute a certificate that (1) the signer has read the filing and knows its contents; (2) the contents are true as stated, to the best knowledge and belief of the signer; and (3) the signer possesses full power and authority to sign the filing. A person submitting a self-certification electronically via eFiling may use typed characters representing their name to show that the person has signed the document. See 18 C.F.R. § 385.2005.]



2. Person to whom communications regarding the filed information may be addressed:

Name: **J. Lars Dorr**

Title: **Lead Project Engineer, Exergy Technology Concepts, LLC**

Telephone number: **208.429.1499**

Mailing address: **802 W. Bannock, Ste 1200**

Boise, ID 83702

3a. Location of facility to be certified:

State: **Idaho**

County: **Cassia**

City or town: **Malta**

Street address (if known): **N/A**

3b. Indicate the electric utilities that are contemplated to transact with the qualifying facility (if known) and describe the services those electric utilities are expected to provide:

Pacificorp DBA, Rocky Mountain Power

Indicate utilities interconnecting with the facility and/or providing wheeling service [18 C.F.R. §§ 292.303(c) and (d)]:

Bonneville Power Administration

Indicate utilities purchasing the useful electric power output [18 C.F.R. §§ 292.101(b)(2), 292.202(g) and 292.303(a)]:

Pacificorp DBA, Rocky Mountain Power

Indicate utilities providing supplementary power, backup power, maintenance power, and/or interruptible power service [18 C.F.R. §§ 292.101(b)(3), (b)(8), 292.303(b) and 292.305(b)]:

Bonneville Power Administration

4a. Describe the principal components of the facility including boilers, prime movers and electric generators, and explain their operation. Include transmission lines, transformers and switchyard equipment, if included as part of the facility.

DeWind D8.2, 2.0MW Wind Turbine Generator
Number of units - 5

4b. Indicate the maximum gross and maximum net electric power production capacity of

the facility at the point(s) of delivery and show the derivation. [Note: Maximum gross output is the maximum amount of power that the facility is able to produce, measured at the terminals of the generator(s). Maximum net output is maximum gross output minus (1) any auxiliary load for devices that are necessary and integral to the power production process (fans, pumps, etc.), and (2) any losses incurred from the generator(s) to the point of delivery. If any electric power is consumed at the location of the QF (or thermal host) for purposes not related to the power production process, such power should not be subtracted from gross output for purposes of reporting maximum net output here.]

Gross output: **10 MW**

Net output: **9 MW**

Derivation (assumptions about losses, auxiliary load or lack thereof, and calculation of gross and net output):

10.0% losses including, but not limited to, line losses, icing, availability, waking, turbulence/control, etc.

4c. Indicate the actual or expected installation and operation dates of the facility, or the actual or expected date of completion of the reported modification to the facility:

June 2008

4d. Describe the primary energy input (e.g., hydro, coal, oil [18 C.F.R. § 292.202(l)], natural gas [18 C.F.R. § 292.202(k)], solar, geothermal, wind, waste, biomass [18 C.F.R. § 292.202(a)], or other). For a waste energy input that does not fall within one of the categories on the Commission's list of previously approved wastes, demonstrate that such energy input has little or no current commercial value and that it exists in the absence of the qualifying facility industry [18 C.F.R. § 292.202(b)].

100% Wind energy input

5. Provide the average annual hourly energy input in terms of Btu for the following fossil fuel energy inputs, and provide the related percentage of the total average annual hourly energy input to the facility [18 C.F.R. § 292.202(j)]. For any oil or natural gas fuel, use lower heating value [18 C.F.R. § 292.202(m)]:

Natural gas: **None**

Oil: **None**

Coal (applicable only to a small power production facility): **None**

6. Discuss any particular characteristic of the facility which the cogenerator or small power producer believes might bear on its qualifying status.

None

PART B: DESCRIPTION OF THE SMALL POWER PRODUCTION FACILITY

Items 7 and 8 only need to be answered by applicants seeking certification as a small power production facility. Applicants for certification as a cogeneration facility may delete Items 7 and 8 from their application, or enter "N/A" at both items.

7. Describe how fossil fuel use will not exceed 25 percent of the total annual energy input limit [18 C.F.R §§ 292.202(j) and 292.204(b)]. Also, describe how the use of fossil fuel will be limited to the following purposes to conform to Federal Power Act section 3(17)(B): ignition, start-up, testing, flame stabilization, control use, and minimal amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public.

N/A

8. If the facility reported herein is not an eligible solar, wind, waste or geothermal facility, and if any other non-eligible facility located within one mile of the instant facility is owned by any of the entities (or their affiliates) reported in Part A at item 1c above and uses the same primary energy input, provide the following information about the other facility for the purpose of demonstrating that the total of the power production capacities of these facilities does not exceed 80 MW [18 C.F.R § 292.204(a)]: [See definition of an "eligible facility" below. Note that an "eligible facility" is a specific type of small power production facility that is eligible for special treatment under the Wind, Waste and Geothermal Power Production Incentives Act of 1990, as subsequently amended in 1991, and should not be confused with facilities that are generally eligible for QF status.]

Facility name, if any (as reported to the Commission):

N/A

Commission Docket Number:

N/A

Name of common owner:

N/A

Common primary energy source used as energy input:

N/A

Power production capacity (MW):

N/A

An eligible solar, wind, waste or geothermal facility, as defined in Section 3(17)(E) of the Federal Power Act, is a small power production facility that produces electric energy solely by the use, as a primary energy input, of solar, wind, waste or geothermal resources, for which either an application for Commission certification of qualifying status [18 C.F.R § 292.207(b)] or a notice of self-certification of qualifying status [18 C.F.R § 292.207(a)] was submitted to the Commission not later than December 31, 1994, and for which construction of such facility commences not later than December 31, 1999, or if not, reasonable diligence is exercised toward the completion of such facility, taking into account all factors relevant to construction of the facility.

PART C: DESCRIPTION OF THE COGENERATION FACILITY

Items 9 through 15 only need to be answered by applicants seeking certification as a cogeneration facility. Applicants for certification as a small power production facility may delete Items 9 through 15 from their application, or enter "N/A" at each item.

DELETED

THIS WORKING DRAFT DOES NOT CONSTITUTE A BINDING OFFER, SHALL NOT FORM THE BASIS FOR AN AGREEMENT BY ESTOPPEL OR OTHERWISE, AND IS CONDITIONED UPON EACH PARTY'S RECEIPT OF ALL REQUIRED MANAGEMENT APPROVALS (INCLUDING FINAL CREDIT AND LEGAL APPROVAL) AND ALL REGULATORY APPROVALS. ANY ACTIONS TAKEN BY A PARTY IN RELIANCE ON THE TERMS SET FORTH IN THIS WORKING DRAFT OR ON STATEMENTS MADE DURING NEGOTIATIONS PURSUANT TO THIS WORKING DRAFT SHALL BE AT THAT PARTY'S OWN RISK. UNTIL THIS AGREEMENT IS NEGOTIATED, APPROVED BY MANAGEMENT, SIGNED, DELIVERED AND APPROVED BY ALL REQUIRED REGULATORY BODIES, NO PARTY SHALL HAVE ANY OTHER LEGAL OBLIGATIONS, EXPRESSED OR IMPLIED, OR ARISING IN ANY OTHER MANNER UNDER THIS WORKING DRAFT OR IN THE COURSE OF NEGOTIATIONS.

POWER PURCHASE AGREEMENT

BETWEEN

[a non-fueled, wind-powered resource with Mechanical Availability Guarantee, Idaho Qualifying Facility interconnected to non-PacifiCorp system in ___[STATE] delivering power to PacifiCorp in Idaho —10aMW/Month or less]

AND

PACIFICORP

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT, entered into this _____ day of _____, 20____, is between _____ [Seller's name], an _____ [Seller's state of incorporation] _____ [corporation, partnership, or limited liability company] (the "Seller") and PacifiCorp, an Oregon corporation acting in its merchant function capacity ("PacifiCorp"). Seller and PacifiCorp are referred to collectively as the "Parties" and individually as a "Party".

RECITALS

A. Seller intends to construct, own, operate and maintain a _____ [state type of facility] facility for the generation of electric power located in _____ [City, County, State] with an expected Facility Capacity Rating of _____-kilowatts (kW) ("Facility").

B. Seller intends to operate the Facility as a Qualifying Facility; as such term is defined in Section 1.52 below.

C. Seller estimates that the average annual Net Output to be delivered by the Facility to PacifiCorp is _____ kilowatt-hours (kWh) ("Average Annual Net Output") pursuant to the monthly Energy Delivery Schedule in Exhibit D hereto, which amount of energy PacifiCorp will include in its resource planning.

D. Seller intends to sell and PacifiCorp intends to purchase all the Net Output from the Facility in accordance with the terms and conditions of this Agreement.

E. PacifiCorp intends to designate Seller's Facility as a Network Resource for the purposes of serving Network Load.

E. Seller intends to transmit Net Output to PacifiCorp via transmission facilities operated by a third party(ies), and PacifiCorp intends to accept scheduled firm delivery of Seller's Net Output, under the terms of this Agreement, including the Generation Scheduling Addendum attached as Addendum W and incorporated contemporaneously herewith.

F. This Agreement is a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol and, as such, the costs of QF energy under this Agreement shall be allocated as a system resource unless any portion of those costs exceeds the cost PacifiCorp would have otherwise incurred acquiring comparable resources. In that event, the Revised Protocol assigns those excess costs on a situs basis to the state in which the Facility is located. In addition, for the purposes of inter-jurisdictional cost allocation, PacifiCorp represents that the costs of this Agreement do not exceed the costs PacifiCorp would have otherwise incurred acquiring resources in the market that are defined as "Comparable Resources" in Appendix A to the Inter-Jurisdictional Cost Allocation Revised Protocol. For the purposes of inter-jurisdictional cost allocation, PacifiCorp represents that the costs and revenues from the energy and capacity sold to Seller by PacifiCorp will be assigned on a situs basis to the state to which Net Output from the Facility is delivered.

G. Seller has authorized Interconnected Utility to release generation data to PacifiCorp. The authorization is attached as Exhibit H.

NOW, THEREFORE, the Parties mutually agree as follows:

SECTION 1: DEFINITIONS

When used in this Agreement, the following terms shall have the following meanings:

1.1 “**As-built Supplement**” shall be a supplement to **Exhibit A**, provided by Seller following completion of construction of the Facility, accurately describing the completed Facility.

1.2 “**Availability**” means, for any Billing Period, the ratio, expressed as a percentage, of (x) the aggregate sum of the turbine-minutes in which each of the Wind Turbines at the Facility was available to generate at the Maximum Facility Delivery Rate during the Billing Period over (y) the product of the number of Wind Turbines that comprise the Facility Capacity Rating as of Commercial Operation multiplied by the number of minutes in such Billing Period. A Wind Turbine shall be deemed not available to operate during minutes in which it is (a) in an emergency, stop, service mode or pause state; (b) in “run” status and faulted; or (c) otherwise not operational or capable of delivering at the Maximum Facility Delivery Rate to the Point of Interconnection; unless if unavailable due solely to (i) a default by PacifiCorp; (ii) a curtailment in accordance with Section 6.2.1(b) or (d); or (iii) insufficient wind (including the normal amount of time required by the generating equipment to resume operations following a period when wind speed is below the Cut-In Wind Speed).

1.3 “**Billing Period**” means the time period between PacifiCorp's reading of its power purchase meter at the Facility and for this Agreement shall coincide with calendar months.

1.4 “**Commercial Operation**” means that not less than the 90% of the expected Facility Capacity Rating is fully operational and reliable and the Facility is fully interconnected, fully integrated, and synchronized with the Interconnected Utility's electric system, all of which shall be Seller's responsibility to receive or obtain, and which occurs when all of the following events (i) have occurred, and (ii) remain simultaneously true and accurate as of the date and moment on which Seller gives PacifiCorp notice that Commercial Operation has occurred:

1.4.1 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer (a) stating the Facility Capacity Rating of the Facility at the anticipated time of Commercial Operation and (b) stating that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement.

1.4.2 Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**.

1.4.3 PacifiCorp has received an executed copy of Seller's Generation Interconnection Agreement and Transmission Agreement(s).

1.4.4 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer, an attorney in good standing in Idaho or ___[State], or a letter from the Interconnected Utility, stating that, in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with the Interconnected Utility's electric system in conformance with the Generation Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement, and the Facility is fully integrated and synchronized with the the Interconnected Utility's electric system.

1.4.5 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer, or an attorney in good standing in _____[State], stating that Seller has obtained all Required Facility Documents and, if requested by PacifiCorp in writing, that Seller has provided copies of any or all such requested Required Facility Documents.

1.4.6 Seller has complied with the security requirements of Section 11.

Seller shall provide written notice to PacifiCorp stating when Seller believes that the Facility has achieved Commercial Operation and its Facility Capacity Rating accompanied by the certificates described above. PacifiCorp shall have ten days after receipt either to confirm to Seller that all of the conditions to Commercial Operation have been satisfied or have occurred, or to state with specificity what PacifiCorp reasonably believes has not been satisfied. If, within such ten day period, PacifiCorp does not respond or notifies Seller confirming that the Facility has achieved Commercial Operation, the original date of receipt of Seller's notice shall be the Commercial Operation Date. If PacifiCorp notifies Seller within such ten day period that PacifiCorp believes the Facility has not achieved Commercial Operation, Seller must address the concerns stated in PacifiCorp's notice to the mutual satisfaction of both Parties, and Commercial Operation shall occur on the date of such satisfaction, as specified in a notice from PacifiCorp to Seller. If Commercial Operation is achieved at less than one hundred percent (100%) of the expected Facility Capacity Rating, Seller shall provide PacifiCorp an expected date for achieving the expected Facility Capacity Rating, and the Facility Capacity Rating on that date shall be the final Facility Capacity Rating under this Agreement. In no event will delay in achieving the expected Facility Capacity Rating beyond the Commercial Operation Date postpone the Expiration Date specified in Section 2.1.

1.5 **"Commercial Operation Date"** means the date the Facility first achieves Commercial Operation.

1.6 **"Commission"** means the Idaho Public Utilities Commission.

1.7 **"Conforming Energy"** means all Net Energy except Non-Conforming Energy and Inadvertent Energy.

1.8 **"Conforming Energy Purchase Price"** means the applicable price for Conforming Energy and capacity, specified in Section 5.1.

1.9 “**Contract Year**” means a twelve (12) month period commencing at 00:00 hours Mountain Prevailing Time (“MPT”) on January 1 and ending on 24:00 hours MPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on the next succeeding December 31, and the last Contract Year shall end on the Expiration Date, unless earlier terminated as provided herein.

1.10 “**Cut-in Wind Speed**” means the wind speed at which a stationary wind turbine begins producing Net Energy, as specified by the turbine manufacturer and set forth in **Exhibit A**.

1.11 “**Delay Liquidated Damages**”, “**Delay Period**”, “**Delay Price**” and “**Delay Volume**” shall have the meanings set forth in Section 2.3 of this Agreement. “**Delay Security**” shall have the meaning set forth in Section 11.1.1 of this Agreement.

1.12 “**Default Security**” shall have the meaning set forth in Section 11.2 of this Agreement.

1.13 “**Effective Date**” shall have the meaning set forth in Section 2.1 of this Agreement.

1.14 “**Energy Delivery Schedule**” shall have the meaning set forth in Section 4.3 of this Agreement.

1.15 “**Environmental Attributes**” means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by PacifiCorp. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) Production Tax Credits or certain other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility, (ii) matters designated by PacifiCorp as sources of liability, or (iii) adverse wildlife or environmental impacts.

1.16 “**Expiration Date**” shall have the meaning set forth in Section 2.1 of this Agreement.

1.17 “**Facility**” means Seller’s project, including the Seller’s Interconnection Facilities, as described in the **Recitals**, **Exhibit A**, and **Exhibit B**.

1.18 “**Facility Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all generators comprising the Facility.

1.19 “**Force Majeure**” has the meaning set forth in Section 15.1.

1.20 **"Forced Outage"** means an outage that requires removal of one or more Wind Turbines from service, another outage state or a reserve shutdown state before the end of the next weekend. Maintenance Outages and Planned Outages are not Forced Outages.

1.21 **"Generation Interconnection Agreement"** means the generation interconnection agreement to be entered into separately between Seller and the Interconnected Utility, as applicable, specifying the Point of Interconnection and providing for the construction and operation of the Interconnection Facilities.

1.22 **"Generation Scheduling Addendum"** means **Addendum W**, the portion of this Agreement providing for the measurement, scheduling, and delivery of Net Output from the Facility to the Point of Delivery via the electric system(s) of non-PacifiCorp Transmission Entity(s).

1.23 **"Inadvertent Energy"** means: (1) energy delivered to the Point of Interconnection or Point of Delivery in excess of the Maximum Monthly Purchase Obligation; and (2) energy delivered to the Point of Interconnection at a rate exceeding the Maximum Facility Delivery Rate on an hour-averaged basis.

1.24 **"Index Price"** shall mean the average of: (1) the weighted average of the daily On-Peak and Off-Peak Intercontinental Exchange (ICE) Mid-Columbia index prices for firm energy; and (2) the weighted average of the daily On-Peak and Off-Peak Intercontinental Exchange (ICE) Palo Verde index (Intercontinental Exchange (ICE) Palo Verde Index) prices for firm energy. For Sunday and NERC holidays, the 24-Hour Index Price shall be used, unless Intercontinental Exchange (ICE) shall publish a Firm On-Peak and Firm Off-Peak Price for such days for Mid-C and Palo Verde, in which event such indices shall be utilized for such days. If the Intercontinental Exchange (ICE) index or any replacement of that index ceases to be published during the term of this Agreement, PacifiCorp shall select as a replacement a substantially equivalent index that, after any appropriate or necessary adjustments, provides the most reasonable substitute for the index in question. PacifiCorp's selection shall be subject to Seller's consent, which Seller shall not unreasonably withhold, condition or delay.

1.25 **"Initial Year Energy Delivery Schedule"** shall have the meaning set forth in Section 4.3.1.

1.26 **"Interconnected Utility"** means _____, the operator of the electric utility system at the Point of Interconnection.

1.27 **"Interconnection Facilities"** means all the facilities and ancillary equipment used to interconnect the Facility to the Interconnected Utility's electric utility system, as defined in the Generation Interconnection Agreement.

1.28 **"Licensed Professional Engineer"** means a person acceptable to PacifiCorp in its reasonable judgment who is licensed to practice engineering in the state of ____ [State of Facility], who has training and experience in the engineering discipline(s) relevant to the matters with respect to which such person is called to provide a certification, evaluation and/or opinion, who has no economic relationship, association, or nexus with the Seller, and who is not a

representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made. The engagement and payment of a Licensed Professional Engineer solely to provide the certifications, evaluations and opinions required by this Agreement shall not constitute a prohibited economic relationship, association or nexus with the Seller, so long as such engineer has no other economic relationship, association or nexus with the Seller.

1.29 **“Maintenance Outage”** means any outage of one or more Wind Turbines that is not a Forced Outage or a Planned Outage. A Maintenance Outage is an outage that can be deferred until after the end of the next weekend, but that requires that the Wind Turbine(s) be removed from service before the next Planned Outage. A Maintenance Outage may occur any time during the year and must have a flexible start date.

1.30 **“Material Adverse Change”** shall mean, with respect to the Seller, if the Seller, in the reasonable opinion of PacifiCorp, has experienced a material adverse change in ability to fulfill its obligations under this Agreement.

1.31 **“Maximum Facility Delivery Rate”** means the maximum instantaneous rate (kW) at which the Facility is capable of delivering Net Output at the Point of Interconnection, as specified in **Exhibit A**, and in compliance with the Generation Interconnection Agreement.

1.32 **“Maximum Monthly Purchase Obligation”** means the maximum amount of energy PacifiCorp is obligated to purchase under this Agreement in a calendar month. In accordance with Commission Order No. 29632, the Maximum Monthly Purchase Obligation for a given month, in kWh, shall equal 10,000 kW multiplied by the total number of hours in that month and prorated for any partial month.

1.33 **“Nameplate Capacity Rating”** means the maximum instantaneous generating capacity of any qualifying small power or cogeneration generating unit supplying all or part of the energy sold by the Facility, expressed in MW or kW, when operated consistent with the manufacturer’s recommended power factor and operating parameters, as set forth in a notice from Seller to PacifiCorp delivered before the Commercial Operation Date and, if applicable, updated in the As-built Supplement.

1.34 **“NERC”** means the North American Electric Reliability Corporation.

1.35 **“Net Energy”** means the energy component, in kWh, of Net Output.

1.36 **“Net Output”** means all energy and capacity produced by the Facility, less station use and less transformation and transmission losses and other adjustments, if any. For purposes of calculating payment under this Agreement, Net Output of energy shall be the amount of energy flowing through the Point of Interconnection, less any station use not provided by the Facility. Net Output does not include Inadvertent Energy.

1.37 **“Network Resource”** shall have the meaning set forth in the Tariff.

1.38 “**Network Service Provider**” means PacifiCorp Transmission, as a provider of network service to PacifiCorp under the Tariff.

1.39 “**Non-Conforming Energy**” means Net Output produced by the Facility prior to the Commercial Operation Date.

1.40 “**Non-Conforming Energy Purchase Price**” means the applicable price for Non-Conforming Energy and capacity, specified in Section 5.1.

1.41 “**Off-Peak Hours**” means all hours of the week that are not On-Peak Hours.

1.42 “**On-Peak Hours**” means hours from 7:00 a.m. to 11:00 p.m. Mountain Prevailing Time, Monday through Saturday, excluding Western Electricity Coordinating Council (WECC) and North American Electric Reliability Corporation (NERC) holidays.

1.43 “**Output Shortfall**” and “**Output Shortfall Damages**” shall have the meanings set forth in Section 4.5 of this Agreement.

1.44 “**PacifiCorp**” is defined in the first paragraph of this Agreement, and excludes PacifiCorp Transmission or a successor, including any RTO.

1.45 “**PacifiCorp Transmission**” means PacifiCorp, an Oregon corporation, acting in its interconnection and transmission function capacity.

1.46 “**Planned Outage**” means an outage of predetermined duration that is scheduled in Seller’s Energy Delivery Schedule. Boiler overhauls, turbine overhauls or inspections are typical planned outages. Maintenance Outages and Forced Outages are not Planned Outages.

1.47 “**Point of Delivery**” means _____, a point of interconnection between _____’s electric system and PacifiCorp Transmission’s electric system at the _____ Substation, as specified in **Exhibit B**.

1.48 “**Point of Interconnection**” means the point where Seller’s Facility interconnects with the Interconnected Utility’s electric utility system, as defined in the Generation Interconnection Agreement and specified in **Exhibit B**.

1.49 “**Prime Rate**” means the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by JPMorgan Chase & Co. If a JPMorgan Chase & Co. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

1.50 “**Production Tax Credits**” means production tax credits under Section 45 of the Internal Revenue Code as in effect from time to time during the term hereof or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources and any correlative state tax credit determined by

reference to renewable electric energy produced from wind resources for which the Facility is eligible.

1.51 **"Prudent Electrical Practices"** means any of the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Electrical Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

1.52 **"QF"** means **"Qualifying Facility"**, as that term is defined in the version of FERC Regulations (codified at 18 CFR Part 292) in effect on the date of this Agreement.

1.53 **"Required Facility Documents"** means all deeds, titles, leases, licenses, permits, authorizations, and agreements (including Transmission Agreements) demonstrating that Seller controls the necessary property rights (e.g. site lease) and government authorizations to construct, operate, and maintain the Facility, including without limitation those set forth in **Exhibit C**.

1.54 **"Scheduled Commercial Operation Date"** means the date by which Seller promises to achieve Commercial Operation, as specified in Section 2.2.6.

1.55 **"Scheduled Monthly Energy Delivery"** means the Net Energy scheduled to be delivered to the Point of Delivery during a given calendar month, as specified by Seller in the Energy Delivery Schedule.

1.56 **"Seller's Forecast-Cost Share"** and **"Seller's Capped Forecast-Cost Share"** shall have the meanings set forth in Sections 8.2 and 8.3 respectively.

1.57 **"Subsequent Energy Delivery Schedule"** shall have the meaning set forth in Section 4.3.3.

1.58 **"Tariff"** means the PacifiCorp Transmission FERC Electric Tariff Seventh Revised Volume No.11 Pro Forma Open Access Transmission Tariff or a Transmission Entity's corresponding Open Access Transmission Tariff or both, as revised from time to time.

1.59 **"Transmission Agreement(s)"** means the agreement(s) (or contemporaneous agreements) between Seller and the Transmitting Entity(s) providing for Seller's uninterrupted right to transmit Net Output to the Point of Delivery.

1.60 **"Transmitting Entity(s)"** means _____, the (non-PacifiCorp) operator(s) of the transmission system(s) between the Point of Interconnection and the Point of Delivery or successor(s) including any regional transmission organization ("**RTO**").

1.61 "Wind Turbine" means a [description of intended wind turbine model] as further described in Exhibit A. At its full Facility Capacity Rating, the Facility will consist of ___ Wind Turbines.

SECTION 2: TERM, COMMERCIAL OPERATION DATE

2.1 This Agreement shall become effective after execution by both Parties and after approval by the Commission ("Effective Date"); *provided*, however, this Agreement shall not become effective until the Commission has determined that the prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by PacifiCorp for purchases of capacity and energy from Seller are legitimate expenses, all of which the Commission will allow PacifiCorp to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.

Unless earlier terminated as provided herein, the Agreement shall remain in effect until _____ [enter date that is no later than 20 years after the Scheduled Commercial Operation Date] ("Expiration Date").

2.2 Time is of the essence of this Agreement, and Seller's ability to meet certain requirements prior to the Commercial Operation Date and to achieve Commercial Operation by the Scheduled Commercial Operation Date is critically important. Therefore,

2.2.1 By _____, Seller shall obtain and provide to PacifiCorp copies of all governmental permits and authorizations necessary for construction of the Facility.

2.2.2 By _____, Seller shall provide to PacifiCorp a copy of an executed Generation Interconnection Agreement and an executed Transmission Agreement(s), whose terms shall be consistent with the terms of this Agreement.

2.2.3 By the date 5 business days after the Effective Date, Seller shall provide Delay Security required under Section 11.1.1, as applicable.

2.2.4 Prior to Commercial Operation, Seller shall provide Default Security required under Section 11.2, as applicable.

2.2.5 Prior to Commercial Operation, Seller shall provide PacifiCorp with an As-built Supplement acceptable to PacifiCorp.

2.2.6 By _____, Seller shall achieve Commercial Operation ("Scheduled Commercial Operation Date").

2.2.7 Beginning _____, Seller shall provide PacifiCorp a one-page monthly update by e-mail on the progress of the milestones in this Section 2.2.

2.3 Seller shall cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date. If Commercial Operation occurs after the Scheduled

Commercial Operation Date, Seller shall be liable to pay PacifiCorp delay damages for the number of days (“**Delay Period**”) the Commercial Operation Date occurs after the Scheduled Commercial Operation Date, up to a total of 120 days (“**Delay Liquidated Damages**”).

Delay Liquidated Damages equals the sum of: the Delay Price times the Delay Volume, for each day of the Delay Period

Where:

“**Delay Price**” equals the positive difference, if any, of the Index Price minus the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices; and

“**Delay Volume**” equals the applicable Scheduled Monthly Energy Delivery divided by the number of days in that month.

The Parties agree that the damages PacifiCorp would incur due to delay in the Facility achieving Commercial Operation on or before the Scheduled Commercial Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1 PacifiCorp represents, covenants, and warrants to Seller that:

3.1.1 PacifiCorp is duly organized and validly existing under the laws of the State of Oregon.

3.1.2 PacifiCorp has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms of this Agreement.

3.1.3 PacifiCorp has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

3.1.4 Subject to Commission approval, the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on PacifiCorp or any valid order of any court, or any regulatory agency or other body having authority to which PacifiCorp is subject.

3.1.5 Subject to Commission approval, this Agreement is a valid and legally binding obligation of PacifiCorp, enforceable against PacifiCorp in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors’ rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2 Seller represents, covenants, and warrants to PacifiCorp that:

3.2.1 Seller is a _____ [corporation, partnership, or limited liability company] duly organized and validly existing under the laws of _____ [state of Seller's incorporation].

3.2.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof, including all required regulatory authority to make wholesale sales from the Facility.

3.2.3 Seller's shareholders, directors, and officers have taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

3.2.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.

3.2.5 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2.6 The Facility is and shall for the term of this Agreement continue to be a QF. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission self-certification to PacifiCorp prior to PacifiCorp's execution of this Agreement. At any time PacifiCorp has reason to believe during the term of this Agreement that Seller's status as a QF is in question, PacifiCorp may require Seller to provide PacifiCorp with a written legal opinion from an attorney in good standing in the state of Idaho and who has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and providing sufficient proof (including copies of all documents and data as PacifiCorp may request) demonstrating that Seller has maintained and will continue to maintain the Facility as a QF.

3.2.7 Neither the Seller nor any of its principal equity owners is or has within the past two (2) years been the debtor in any bankruptcy proceeding, is unable to pay its bills in the ordinary course of its business, or is the subject of any legal or regulatory action, the result of which could reasonably be expected to impair Seller's ability to own and operate the Facility in accordance with the terms of this Agreement.

3.2.8 Seller has not at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.

3.2.9 Seller is not in default under any of its other agreements and is current on all of its financial obligations.

3.2.10 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility.

3.3 Notice. If at any time during this Agreement, any Party obtains actual knowledge of any event or information which would have caused any of the representations and warranties in this Section 3 to have been materially untrue or misleading when made, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

SECTION 4: DELIVERY OF POWER; AVAILABILITY GUARANTY

4.1 Delivery and Acceptance of Net Output. Unless otherwise provided herein, PacifiCorp will purchase and Seller will sell all Net Output from the Facility.

4.2 No Sales to Third Parties. During the term of this Agreement, Seller shall not sell any Net Output from the Facility to any entity other than PacifiCorp.

4.3 Energy Delivery Schedule. Seller shall prepare and provide to PacifiCorp, on an ongoing basis, a written schedule of Net Energy expected to be delivered to the Point of Delivery by the Facility ("**Energy Delivery Schedule**"), in accordance with the following:

4.3.1 During the first twelve full calendar months following the Commercial Operation Date, Seller predicts that the Facility will produce and deliver to the Point of Delivery the following monthly amounts ("**Initial Year Energy Delivery Schedule**"):

<u>Month</u>	<u>Energy Delivery (kWh)</u>
January	
February	
March	
April	
May	
June	

July
August
September
October
November
December

4.3.2 Seller may revise the Initial Year Energy Delivery Schedule any time prior to the Commercial Operation Date.

4.3.3 Beginning at the end of the ninth full calendar month of operation, and at the end of every 3rd month thereafter, Seller shall supplement the Energy Delivery Schedule with three additional months of forward estimates (which shall be appended to this Agreement as **Exhibit D**) ("**Subsequent Energy Delivery Schedule**"), such that the Energy Delivery Schedule will provide at least three months of scheduled energy estimates at all times. Seller shall provide Subsequent Energy Delivery Schedules no later than 5:00 pm of the 5th day after the due date. If Seller does not provide a Subsequent Energy Delivery Schedule by the above deadline, scheduled energy for the omitted period shall equal the amounts scheduled by Seller for the same three-month period during the previous year.

4.3.4 Beginning with the end of the third month after the Commercial Operation Date and at the end of every third month thereafter the Seller may not revise the immediate next three months of previously provided Energy Delivery Schedules. But by written notice given to PacifiCorp no later than 5:00 PM of the 5th day after the end of any such third month, the Seller may revise all other previously provided Energy Delivery Schedules. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

4.4 Minimum Availability Obligation. Seller shall cause the Facility to achieve an Availability of at least 85% during each month ("**Guaranteed Availability**").

4.5 Liquidated Damages for Output Shortfall. If the Availability in any given month falls below the Guaranteed Availability, the resulting shortfall shall be expressed in kWh as the "**Output Shortfall.**" The Output Shortfall shall be calculated in accordance with the following formula:

$$\text{Output Shortfall} = \frac{(\text{Guaranteed Availability} - \text{Availability}) * \text{Scheduled Monthly Energy Delivery}}{\text{Scheduled Monthly Energy Delivery}}$$

Seller shall pay PacifiCorp for any Output Shortfall at the lower of (1) the positive difference, if any, of the Index Price minus the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices; or (2) the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices ("**Output Shortfall Damages**").

Output Shortfall Damages = Output Shortfall * Output Shortfall Price

Where:

Output Shortfall Price = (Index Price – Weighted Average CEPP); provided that if Output Shortfall Price < 0, then Output Shortfall Price = 0; and provided, further, that if Output Shortfall Price > Weighted Average CEPP, then Output Shortfall Price = Weighted Average CEPP

Weighted Average CEPP = the weighted average On-Peak and Off-Peak Conforming Energy Purchase Prices for the month of Output Shortfall

If an Output Shortfall occurs in any given month, Seller may owe PacifiCorp liquidated damages. Each Party agrees and acknowledges that (a) the damages that PacifiCorp would incur due to the Facility’s failure to achieve the Guaranteed Availability would be difficult or impossible to predict with certainty, and (b) the liquidated damages contemplated in this Section 4.5 are a fair and reasonable calculation of such damages.

4.6 Audit Rights. In addition to data provided under Sections 9.2 and 9.3, PacifiCorp shall have the right, but not the obligation, to audit the Facility’s compliance with its Guaranteed Availability using any reasonable methods. Seller agrees to retain all performance related data for the Facility for a minimum of three years, and to cooperate with PacifiCorp in the event PacifiCorp decides to audit such data.

SECTION 5: PURCHASE PRICES

5.1 Energy Purchase Price. Except as provided in Section 5.3, PacifiCorp will pay Seller Conforming Energy or Non-Conforming Energy Purchase Prices for Net Output delivered to the Point of Delivery and adjusted for the month and On-Peak Hours or Off-Peak Hours and the wind integration cost using the following formulae, in accordance with Commission Order Nos. 30423, 30497, and 30744:

Conforming Energy Purchase Price = (AR_{ce} * MPM) - WIC

Non-Conforming Energy Purchase Price = (AR_{ncc} * MPM) - WIC

Where:

AR_{ce} = Conforming Energy annual rate from Table 1, below, for the year of the Net Output.

AR_{ncc} = Non-Conforming Energy annual rate, equal to the lower of:
85% of the Conforming Energy annual rate from Table 1, below, for the year of Net Output

or

85% of weighted average of the daily On-Peak and Off-Peak Intercontinental Exchange (ICE) Mid-Columbia index prices for firm energy for the month, or portion of month, of Net Output.

- MPM = monthly On-Peak or Off-Peak multiplier from Table 2, below, that corresponds to the month of the Net Output and whether the Net Output occurred during On-Peak Hours or Off-Peak Hours.
- WIC = the wind integration cost prescribed in Commission Order No. 30497 or subsequent order in effect at the time of execution.

Example calculations are provided in **Exhibit G**.

Table 1: Conforming Energy Annual Rates (from Commission Order No. 30744)*

Year	Conforming Energy Annual Rate (AR _{ce}) \$/MWh
2010	75.83
2011	77.95
2012	80.24
2013	82.14
2014	84.09
2015	86.09
2016	88.25
2017	90.34
2018	92.60
2019	94.80
2020	97.05
2021	99.36
2022	101.73
2023	104.15
2024	106.64
2025	109.19
2026	112.30
2027	115.50
2028	118.80
2029	122.20
2030	125.71

Table 2: Monthly On-Peak/Off-Peak Multipliers (from Commission Order No. 30423)

Month	On-Peak Hours	Off-Peak Hours
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* If Seller has elected leveled pricing for Net Output, additional security requirements in Section 11.2 apply.

January	103%	94%
February	105%	97%
March	95%	80%
April	95%	76%
May	92%	63%
June	94%	65%
July	121%	92%
August	121%	106%
September	109%	99%
October	115%	105%
November	110%	96%
December	129%	120%

5.2 Payment.

For each Billing Period in each Contract Year, PacifiCorp shall pay Seller as follows:

For Conforming Energy delivered to the Point of Delivery:

$$\text{Payment} = (\text{CEnergy}_{\text{On-Peak}} * \text{CEPPrice}_{\text{On-Peak}} / 1000) + (\text{CEnergy}_{\text{Off-Peak}} * \text{CEPPrice}_{\text{Off-Peak}} / 1000)$$

For Non-Conforming Energy delivered to the Point of Delivery:

$$\text{Payment} = (\text{NCEnergy}_{\text{On-Peak}} * \text{NCEPPrice}_{\text{On-Peak}} / 1000) + (\text{NCEnergy}_{\text{Off-Peak}} * \text{NCEPPrice}_{\text{Off-Peak}} / 1000)$$

Where:

- CEnergy = Conforming Energy in kWh
- CEPPrice = Conforming Energy Purchase Price in \$/MWh
- NCEnergy = Non-Conforming Energy in kWh
- NCEPPrice = Non-Conforming Energy Purchase Price in \$/MWh
- On-Peak = the corresponding value for On-Peak Hours
- Off-Peak = the corresponding value for Off-Peak Hours

5.3 Inadvertent Energy. PacifiCorp may accept Inadvertent Energy at its sole discretion, but will not purchase or pay for Inadvertent Energy.

SECTION 6: OPERATION AND CONTROL

6.1 Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, Transmission Agreement(s), Prudent Electrical Practices and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code as such laws and code may be amended from time to time. PacifiCorp shall have no obligation to purchase Net Output from the Facility to the extent that any interconnections or portion of the path of delivery between the Facility and PacifiCorp Transmission's electric system is disconnected, suspended or interrupted, in whole or in part,

pursuant to the Generation Interconnection Agreement, the Transmission Agreement(s), or to the extent generation curtailment is required as a result of Seller's non-compliance with the Generation Interconnection Agreement or Transmission Agreement(s). PacifiCorp shall have the right to inspect the Facility to confirm that Seller is operating the Facility in accordance with the provisions of this Section 6 upon reasonable notice to Seller. Seller is solely responsible for the operation and maintenance of the Facility. PacifiCorp shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.

6.2 Energy Acceptance.

6.2.1 Required Curtailment. PacifiCorp shall not be obligated to purchase, receive or pay for Net Output (nor shall it be liable for associated unrealized Production Tax Credits or Environmental Attributes) that is not delivered to the Point of Delivery during times and to the extent that such Net Output is not delivered to the Point of Delivery because (a) the interconnection between the Facility and the Interconnected Utility's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the terms of the Generation Interconnection Agreement, (b) a Network Service Provider or Transmission Entity Curtails (as defined in the applicable Tariff) Net Output or orders PacifiCorp to curtail Net Output, (c) the Facility's Output is not received because the Facility is not fully integrated or synchronized with the Interconnected Utility's electric system, or (d) an event of Force Majeure prevents either Party from delivering or receiving Net Output. The MWh amount of Net Output curtailed pursuant to this Section 6.2.1 shall be reasonably determined by Seller after the fact based on the amount of energy that could have been generated at the Facility and delivered to PacifiCorp at the Point of Delivery as Net Output but that was not generated and delivered because of the curtailment. Seller shall determine the quantity of such curtailed energy based on (x) the time and duration of the curtailment period and (y) wind conditions recorded at the Facility during the period of curtailment and the tested and verified power curve for the Wind Turbines. Seller shall promptly provide PacifiCorp with access to such information and data as PacifiCorp may reasonably require to confirm to its reasonable satisfaction the amount of energy that was not generated or delivered because of a curtailment described in this Section 6.2.1.

6.2.2 PacifiCorp as Merchant. Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser under this Agreement, has no responsibility for or control over PacifiCorp Transmission.

6.3 Outages.

6.3.1 Planned Outages. Except as otherwise provided herein, Seller shall not schedule Planned Outage during any portion of the months of November, December, January, February, June, July, and August, except to the extent a Planned Outage is reasonably required to enable a vendor to satisfy a guarantee requirement in a situation in which the vendor is not otherwise able to perform the guarantee work at a time other than during one of the months specified above. Seller shall, in **Exhibit D**, provide PacifiCorp

with an annual forecast of Planned Outages for each Contract Year at least one (1) month, but no more than three (3) months, before the first day of that Contract Year, and shall promptly update such schedule, or otherwise change it only, to the extent that Seller is reasonably required to change it in order to comply with Prudent Electrical Practices. Seller shall not schedule more than one hundred fifty (150) hours of Planned Outages for each calendar year. Seller shall not schedule any maintenance of Interconnection Facilities during such months, without the prior written approval of PacifiCorp, which approval may be withheld by PacifiCorp in its sole discretion.

6.3.2 Maintenance Outages. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller shall notify PacifiCorp of the proposed Maintenance Outage as soon as practicable but in any event at least five (5) days before the outage begins (or such shorter period to which PacifiCorp may reasonably consent in light of then existing wind conditions). Upon such notice, the Parties shall plan the Maintenance Outage to mutually accommodate the reasonable requirements of Seller and the service obligations of PacifiCorp. Seller shall take all reasonable measures and use best efforts consistent with Prudent Electrical Practices to not schedule any Maintenance Outage during the following periods: June 15 through June 30, July, August, and September 1 through September 15. Seller shall include in such notice of a proposed Maintenance Outage the expected start date and time of the outage, the amount of generation capacity of the Facility that will not be available, and the expected completion date and time of the outage. Seller may provide notices under this Section 6.3.2 orally. Seller shall confirm any such oral notification in writing as soon as practicable. PacifiCorp shall promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller shall use all reasonable efforts to comply with PacifiCorp's request to modify the schedule for a Maintenance Outage if such modification has no substantial impact on Seller. Seller shall notify PacifiCorp of any subsequent changes in generation capacity of the Facility during such Maintenance Outage and any changes in the Maintenance Outage completion date and time. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to minimize the frequency and duration of Maintenance Outages.

6.3.3 Forced Outages. Seller shall promptly provide to PacifiCorp an oral report, via telephone to a number specified by PacifiCorp, of any Forced Outage of the Facility. Such report shall include the amount of generation capacity of the Facility that will not be available because of the Forced Outage and the expected return date and time of such generation capacity. Seller shall promptly update the report as necessary to advise PacifiCorp of changed circumstances. If the Forced Outage resulted in more than 15% of the Facility Capacity Rating of the Facility being unavailable, Seller shall confirm the oral report in writing as soon as practicable. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to avoid Forced Outages and to minimize their duration.

6.3.4 Notice of Deratings and Outages. Without limiting other notice requirements, Seller shall notify PacifiCorp, via telephone to a number specified by

PacifiCorp, of any limitation, restriction, derating or outage known to Seller that affects the generation capacity of the Facility in an amount greater than five percent (5%) of the Facility Capacity Rating for the following day. Seller shall promptly update such notice to reflect any material changes to the information in such notice.

6.3.5 Effect of Outages on Estimated Output. Seller shall factor Planned Outages and Maintenance Outages that Seller reasonably expects to encounter in the ordinary course of operating the Facility into the Scheduled Monthly Energy Delivery amounts in the Energy Delivery Schedule set forth in **Exhibit D**.

6.4 Scheduling.

6.4.1 Daily Scheduling. Daily scheduling shall be done in accordance with Section 2 of Addendum W.

6.4.2 Cooperation and Standards. With respect to any and all scheduling requirements in this Agreement, (a) Seller shall cooperate with PacifiCorp with respect to scheduling Net Output, and (b) each Party shall designate authorized representatives to communicate with regard to scheduling and related matters arising hereunder.

SECTION 7: MOTIVE FORCE

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp a motive force plan including an hourly wind profile acceptable to PacifiCorp in its reasonable discretion and attached hereto as **Exhibit F-1**, together with a certification from a Licensed Professional Engineer to PacifiCorp attached hereto as **Exhibit F-2**, certifying that the implementation of the fuel or motive force plan can reasonably be expected to provide fuel or motive force to the Facility for the duration of this Agreement adequate to generate power and energy in quantities necessary to deliver the Average Annual Net Output.

SECTION 8: GENERATION FORECASTING COSTS

8.1 Forecast Service Election. PacifiCorp may, in its discretion, add forecasting services for Seller's Facility to PacifiCorp's existing contract with a qualified wind-energy-production forecasting vendor, which contract and vendor may change during the term of this Agreement.

8.2 Seller's Forecast-Cost Share. Pursuant to Commission Order No. 30497, Seller shall be responsible for 50% of PacifiCorp's cost of adding such forecasting services ("**Seller's Forecast-Cost Share**") up to Seller's Capped Forecast-Cost Share.

8.3 Cap on Seller's Forecast-Cost Share. Seller's Forecast-Cost Share for a given Contract Year is capped at 0.1% of total payments made by PacifiCorp to Seller for Net Output during the previous Contract Year ("**Seller's Capped Forecast-Cost Share**"). If the last Contract Year of this Agreement is shorter than a full calendar year, the cap will be prorated for that shortened year. For the year(s) prior to the second Contract Year of this agreement that

equals a full calendar year, Seller's Forecast-Cost Share is capped at 0.1% of estimated payments for Net Output based on the Energy Delivery Schedule.

8.4 Payment. Seller shall pay to PacifiCorp Seller's Forecast-Cost Share uncapped by Section 8.3 for each Contract Year in equal payments for each month of such year except the last month of such year. (For example, in a Contract Year equaling a full calendar year, Seller would pay 1/11th of Seller's Forecast-Cost Share during each of the first 11 months.) In the last month of each Contract Year, PacifiCorp shall refund to Seller the amount paid by Seller under this Section in excess, if any, of Seller's Capped Forecast-Cost Share. For a Contract Year encompassed by just one calendar month, Seller's payment to PacifiCorp and PacifiCorp's refund to Seller shall be calculated and paid simultaneously. To the extent practicable, payments and refunds under this Section shall be netted and included in monthly payments and invoices under Section 10.

SECTION 9: METERING; REPORTS AND RECORDS

9.1 Metering Equipment. PacifiCorp shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment required for purposes of Sections 9.1.1 and 9.1.2.

9.1.1 Location of Metering Equipment. Metering shall be performed at the location and in the manner specified in **Exhibit B**. Seller shall provide to PacifiCorp meter readings of Net Output (or if Net Output is a composite reading, readings of all meters necessary to calculate Net Output) in hourly increments, and any other data inputs required to administer this Agreement. Upon PacifiCorp's request, Seller shall provide PacifiCorp with the same telemeter data that Seller provides to the Transmitting Entity(s), if any, if such data is useful to PacifiCorp's administration of this Agreement. All quantities of energy purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of Interconnection, so that the purchased amount reflects the net amount of power flowing into the Interconnected Utility's electric system at the Point of Interconnection. The loss adjustment shall be a reduction of 2% of the kWh energy production recorded on the Facility output meter until actually measured and calibrated at the meter by PacifiCorp.

9.1.2 Maintenance of Metering Equipment. PacifiCorp shall periodically inspect, test, repair and replace the metering equipment required for purposes of Sections 9.1.1 and 9.1.2 or at the request of Seller if Seller has reason to believe metering may be off and requests an inspection in writing. Seller shall bear the cost for any Seller requests. If any of the inspections or tests disclose an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three Billing Periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.

9.1.3 Costs of Metering Equipment. All PacifiCorp's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

9.2 Telemetering. Seller shall provide telemetering equipment and facilities capable of transmitting the following information concerning the Facility to PacifiCorp on a real-time basis, and will operate such equipment when requested by PacifiCorp to indicate:

- (a) instantaneous MW output at the Point of Interconnection;
- (b) Net Output; and
- (c) the Facility's total instantaneous generation capacity.

Seller shall also transmit to PacifiCorp any other data from the Facility that Seller receives on a real-time basis, including meteorological data, wind speed data, wind direction data and gross output data. Seller shall provide such real-time data to PacifiCorp in the same detail that Seller receives the data (e.g., if Seller receives the data in four second intervals, PacifiCorp shall also receive the data in four second intervals). PacifiCorp shall have the right from time to time to require Seller to provide additional telemetering equipment and facilities to the extent necessary and reasonable.

9.3 Monthly Reports and Logs. Within thirty (30) days after the end of each Billing Period, Seller shall provide to PacifiCorp the following:

9.3.1 Reports. A report in electronic format, which report shall include (a) summaries of the Facility's wind and output data for the Billing Period in intervals not to exceed one hour (or such shorter period as is reasonably possible with commercially available technology), including information from the Facility's computer monitoring system; (b) summaries of any other significant events related to the construction or operation of the Facility for the Billing Period; (c) details of Availability of the Facility for the Billing Period sufficient to calculate Availability and including hourly average wind velocity measured at turbine hub height and ambient air temperature; and (d) any supporting information that PacifiCorp may from time to time reasonably request (including historical wind data for the Facility).

9.3.2 Electronic Fault Log. Seller shall maintain an electronic fault log of operations of the Facility during each hour of the term of this Agreement commencing on the Commercial Operation Date. Seller shall provide PacifiCorp with a copy of the electronic fault log within thirty (30) days after the end of the Billing Period to which the fault log applies.

9.4 Cost of Performance Monitoring. Seller shall pay for and design, furnish, install, own, inspect, test, maintain and replace all equipment required in order to record data required for the reports and logs in Sections 9.3.

SECTION 10: BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 Payment for Net Output. On or before the thirtieth (30th) day following the end of each Billing Period, PacifiCorp shall send to Seller payment for Seller's deliveries of Net Output

to PacifiCorp, together with computations supporting such payment. PacifiCorp may offset any such payment to reflect amounts owing from Seller to PacifiCorp pursuant to this Agreement and any other agreement(s) between the Parties. Any such offsets shall be separately itemized on the statement accompanying each payment to Seller.

10.2 Annual Invoicing for Output Shortfall. Thirty calendar days after the end of each Contract Year, PacifiCorp shall deliver to Seller an invoice showing PacifiCorp's computation of Output Shortfall, if any, for all Billing Periods in the prior Contract Year and Output Shortfall Damages, if any. In preparing such invoices, PacifiCorp shall utilize the meter data provided to PacifiCorp for the Contract Year in question, but may also rely on historical averages and such other information as may be available to PacifiCorp at the time of invoice preparation if the meter data for such Contract Year is then incomplete or otherwise not available. To the extent required, PacifiCorp shall prepare any such invoice as promptly as practicable following its receipt of actual results for the relevant Contract Year. Seller shall pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice, and shall within thirty (30) days after receiving the invoice raise any objections regarding any disputed portion of the invoice. Objections not made by Seller within the thirty-day period shall be deemed waived.

10.3 Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; *provided, however*, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.

10.4 Disputed Amounts. If either Party, in good faith, disputes any amount due pursuant to an invoice rendered hereunder, such Party shall notify the other Party of the specific basis for the dispute and, if the invoice shows an amount due, shall pay that portion of the statement that is undisputed, on or before the due date. Except with respect to invoices provided under Section 10.2, any such notice shall be provided within two (2) years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due to the other Party, or if the Parties resolve the payment dispute, the amount due shall be paid within five (5) days after such determination or resolution, along with interest in accordance with Section 10.3.

SECTION 11: SECURITY

11.1 Delay Security:

11.1.1 Duty to Post Security. By the date provided in Section 2.2.3, shall post a letter of credit in the amount of _____ ("**Delay Security**"). The letter of credit shall be an irrevocable standby letter of credit, from an institution that has a long-term senior unsecured debt rating of "A" or greater from Standard & Poors or "A2" or greater from Moody's, in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests thereunder. To the extent PacifiCorp's draws on the letter of credit cause the remaining balance of the letter of

credit to drop below _____, Seller, within 15 calendar days, shall restore the letter of credit to no less than \$ _____.

11.1.2 Right to Draw on Security. PacifiCorp shall have the right to draw on the Delay Security to collect Delay Liquidated Damages. Commencing on or about first of each month, PacifiCorp will invoice Seller for Delay Liquidated Damages incurred, if any, during the preceding month. If Seller fails to pay any undisputed amount within 30 calendar days of the invoice date, PacifiCorp shall draw such amount on the Delay Security. The Parties will make billings and payments for Delay Liquidated Damages in accordance with Section 10.

11.1.3 Additional Security. In the event PacifiCorp reasonably determines at any time that the remaining amount of Delay Security is less than the estimated value of Delay Liquidated Damages (due to upward changes in market price and/or due to Seller's inability to meet the Scheduled Commercial Operation Date), PacifiCorp may demand that Seller post, and Seller will post within 5 business days of receipt of such demand, additional Delay Security equal to the estimated (unpaid) Delay Liquidated Damages.

11.1.4 Termination of Letter of Credit. Unless PacifiCorp disputes whether Seller has paid all Delay Liquidated Damages, Seller may terminate the Delay Security letter of credit on or after the 180th calendar day following commencement of Commercial Operation by providing PacifiCorp with no less than thirty-day advance written notice of its intent to do so.

11.1.5 Default. Seller's failure to post and maintain Delay Security in accordance with Section 11.1 will constitute an event of default, unless cured in accordance with Section 12.1.1 of this Agreement.

11.2 Default Security (Levelized Pricing Only). If Seller has adopted levelized pricing for Net Output, by the date provided in Section 2.2.4, Seller will provide security to PacifiCorp pursuant to Commission Order Nos. 21690, 21800, 29482, 29587 and related orders ("**Default Security**") as set forth in Addendum __ [add addendum if Seller elects levelized pricing].

SECTION 12: DEFAULTS AND REMEDIES

12.1 The following events shall constitute defaults under this Agreement:

12.1.1 Non-Payment. Seller's failure to make a payment when due under this Agreement or post and maintain security in conformance with the requirements of Section 11 or maintain insurance in conformance with the requirements of Section 14 of this Agreement, if the failure is not cured within ten (10) business days after the non-defaulting Party gives the defaulting Party a notice of the default.

12.1.2 Breach of Material Term. Breach by a Party of a representation or warranty set forth in this Agreement, if such failure or breach is not cured within thirty (30) days following written notice.

12.1.3 Default on Other Agreements. Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Generation Interconnection Agreement and Transmission Agreement(s)) within the time allowed for a cure under such agreement or instrument.

12.1.4 Insolvency. A Party (a) makes an assignment for the benefit of its creditors; (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (c) becomes insolvent; or (d) is unable to pay its debts when due.

12.1.5 Material Adverse Change. A Material Adverse Change has occurred with respect to Seller and Seller fails to provide such performance assurances as are reasonably requested by PacifiCorp, within fifteen (15) days from the date of such request.

12.1.6 Sale to Third-Party. Seller's sale of Net Output to an entity other than PacifiCorp, as prohibited by Section 4.2.

12.1.7 Non-Delivery. Unless excused by an event of Force Majeure, Seller's failure to deliver any Net Energy to the Point of Delivery for three consecutive calendar months.

12.1.8 A Party otherwise fails to perform any material obligation (including but not limited to failure by Seller to meet any deadline set forth in Section 2.2) imposed upon that Party by this Agreement if the failure is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party notice of the default; *provided, however,* that, upon written notice from the defaulting Party, this thirty (30) day period shall be extended by an additional ninety (90) days if (a) the failure cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional ninety (90) day period, and (c) the defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

12.2 In the event of any default hereunder, the non-defaulting Party must notify the defaulting Party in writing of the circumstances indicating the default and outlining the requirements to cure the default. If the default has not been cured within the prescribed time, above, the non-defaulting Party may terminate this Agreement at its sole discretion by delivering written notice to the other Party and may pursue any and all legal or equitable remedies provided by law or pursuant to this Agreement. The rights provided in this Section 12 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.

12.3 In the event this Agreement is terminated because of Seller's default and Seller wishes to again sell Net Output from the facility using the same motive force to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller do so subject to the terms of this Agreement, including but not limited to the purchase prices as set forth in

(Section 5), until the Expiration Date (as set forth in Section 2.1). At such time Seller and PacifiCorp agree to execute a written document ratifying the terms of this Agreement.

12.4 If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp for Output Shortfall for a period of eighteen (18) months from the date of termination plus the estimated administrative cost to acquire the replacement power.

12.5 Recoupment of Damages.

- (a) Default Security Available. If Seller has posted Default Security, PacifiCorp may draw upon that security to satisfy any damages, above.
- (b) Default Security Unavailable. If Seller has not posted Default Security, or if PacifiCorp has exhausted the Default Security, PacifiCorp may (in addition to any other remedy at law) collect any remaining amount owing by partially withholding future payments to Seller over a reasonable period of time. PacifiCorp and Seller shall work together in good faith to establish the period, and monthly amounts, of such withholding so as to avoid Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility.

12.6 Upon an event of default or termination event resulting from default under this Agreement, in addition to and not in limitation of any other right or remedy under this Agreement or applicable law (including any right to set-off, counterclaim, or otherwise withhold payment), the non-defaulting Party may at its option set-off, against any amounts owed to the defaulting Party, any amounts owed by the defaulting Party under any contract(s) or agreement(s) between the Parties. The obligations of the Parties shall be deemed satisfied and discharged to the extent of any such set-off. The non-defaulting Party shall give the defaulting Party written notice of any set-off, but failure to give such notice shall not affect the validity of the set-off.

12.7 Amounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PacifiCorp for the same.

SECTION 13: INDEMNIFICATION

13.1 Indemnities.

13.1.1 Indemnity by Seller. Seller shall release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (a) the energy delivered by Seller under this Agreement to and at the Point of Delivery, (b) any facilities on Seller's side of the Point of Delivery, (c) Seller's operation and/or maintenance of the Facility, or (d) arising from this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property

belonging to PacifiCorp, Seller or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of PacifiCorp, its directors, officers, employees, agents or representatives.

13.1.2 Indemnity by PacifiCorp. PacifiCorp shall release, indemnify and hold harmless Seller, its directors, officers, agents, lenders and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with the energy delivered by Seller under this Agreement after the Point of Delivery, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of Seller, its directors, officers, employees, agents, lenders or representatives.

13.2 No Dedication. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PacifiCorp as an independent public utility corporation or Seller as an independent individual or entity.

13.3 CONSEQUENTIAL DAMAGES. EXCEPT TO THE EXTENT SUCH DAMAGES ARE INCLUDED IN THE LIQUIDATED DAMAGES, DELAY DAMAGES, OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE.

SECTION 14: LIABILITY AND INSURANCE

14.1 Insurance Coverage Requirements. Without limiting any liabilities or any other obligations of Seller, Seller shall, prior to the Effective Date, secure and continuously carry with insurers acceptable to PacifiCorp the following insurance coverage:

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- 14.1.1 Special Form Property insurance providing coverage in an amount at least equal to the full replacement value of the Facility against special form property physical loss or damage with normal and customary exclusions, including coverage for earth earthquake, flood, and boiler and machinery. This property insurance may contain separate sub-limits and deductibles. This property insurance will be maintained in accordance with terms available in the insurance market for similar facilities.
- 14.1.2 Employers' Liability insurance with minimum limits of \$1,000,000 applicable to each accident/disease-each employee/disease-policy limit.
- 14.1.3 Commercial General Liability insurance, to include contractual liability, premises and operations, and broad form property damage, with a minimum single limit of \$1,000,000 each occurrence/\$2,000,000 general aggregate to protect against and from loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement.
- 14.1.4 Business Automobile Liability insurance with a minimum single limit of \$1,000,000 each accident for bodily injury and property damage with respect to Seller's vehicles whether owned, hired or non-owned, assigned to or used in connection with this Agreement.
- 14.1.5 Umbrella Liability insurance with a minimum limit of \$5,000,000 each occurrence/aggregate where applicable to be excess of the coverages and limits required in Employers' Liability insurance, Commercial General Liability insurance, and Business Automobile Liability insurance above. Seller shall notify PacifiCorp, if at any time this minimum umbrella limit is not available during the term of this Agreement, and may be required to purchase additional limits of coverage.
- 14.1.6 The Commercial General Liability policy required herein shall include i) provisions or endorsements naming PacifiCorp, its Directors, Officers, agents and employees as additional insureds, and ii) cross liability coverage so that the insurance applies separately to each insured against whom claim is made or suit is brought, even in instances where one insured claims against or sues another insured.
- 14.1.7 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without 1) ten (10)

days prior written notice to PacifiCorp if canceled for nonpayment of premium, or 2) thirty (30) days prior written notice to PacifiCorp if canceled for any other reason. A certificate in a form satisfactory to PacifiCorp certifying to the issuance of such insurance, shall be furnished to PacifiCorp. Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate. If requested by PacifiCorp, a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, shall be furnished to PacifiCorp.

14.1.8 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement.

14.2 Periodic Review. PacifiCorp may review this schedule of required insurance provided in Section 14 as often as once every two (2) years. PacifiCorp may in its discretion require the Seller to make changes to the insurance coverage requirements in this Section 14 to the extent reasonably necessary to cause such policies and coverages to conform to the insurance policies and coverages typically obtained or required for power generation facilities comparable to the Facility at the time of PacifiCorp's review takes place with the consent of Seller, which shall not be unreasonably withheld.

SECTION 15: FORCE MAJEURE

15.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the reasonable control of the Seller or of PacifiCorp which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, flood, storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority which is in each case (i) beyond the reasonable control of such Party, (ii) by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and (iii) by the exercise of due diligence, such Party shall be unable to prevent or overcome. Force Majeure, however, specifically excludes the cost or availability of fuel or motive force to operate the Facility or changes in market conditions that affect the price of energy or transmission. If either Party is rendered wholly or in part unable to perform its obligation under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

15.1.1 the non-performing Party, shall, within two (2) weeks after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence, including the start date of the Force Majeure, the cause of Force Majeure, whether the Facility remains partially operational and the expected end date of the Force Majeure;

15.1.2 the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure;

15.1.3 the non-performing Party uses its best efforts to remedy its inability to perform; and

15.1.4 the non-performing Party shall provide prompt written notice to the other Party at the end of the Force Majeure event detailing the end date, cause there of, damage caused there by and any repairs that were required as a result of the Force Majeure event, and the end date of the Force Majeure.

15.2 No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

15.3 Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

SECTION 16: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

SECTION 17: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Idaho, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

SECTION 18: PARTIAL INVALIDITY

It is not the intention of the Parties to violate any laws governing the subject matter of this Agreement. If any of the terms of the Agreement are finally held or determined to be invalid, illegal or void as being contrary to any applicable law or public policy, all other terms of the Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties to this Agreement.

SECTION 19: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must

be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

SECTION 20: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

PacifiCorp's compliance with the terms of this Agreement is conditioned on Seller's submission to PacifiCorp prior to the Commercial Operation Date and Seller's maintenance thereafter of copies of all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility.

SECTION 21: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any entity with which PacifiCorp may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of PacifiCorp's rights, obligations, and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. PacifiCorp shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

SECTION 22: ENTIRE AGREEMENT

22.1 This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding PacifiCorp's purchase of Net Output from the Facility. No modification of this Agreement shall be effective unless it is in writing and signed by both Parties.

22.2 By executing this Agreement, each Party releases the other from any claims, known or unknown, that may have arisen prior to the Effective Date with respect to the Facility and any predecessor facility proposed to have been constructed on the site of the Facility.

SECTION 23: NOTICES

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested.

Notices	PacifiCorp	Seller
All Notices	PacifiCorp 825 NE Multnomah Street Portland,	

DRAFT

Notices	PacifiCorp	Seller
	OR 97232 Attn: Contract Administration, Suite 600 Phone: (503) 813 - 5952 Facsimile: (503) 813 - 6291 Duns: 00-790-9013 Federal Tax ID Number: 93-0246090	
All Invoices:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
Scheduling:	Attn: Resource Planning, Suite 600 Phone: (503) 813 - 6090 Facsimile: (503) 813 - 6265	
Payments:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
Wire Transfer:	Bank One N.A. To be provided in separate letter from PacifiCorp to Seller	
Credit and Collections:	Attn: Credit Manager, Suite 1900 Phone: (503) 813 - 5684 Facsimile: (503) 813-5609	
With Additional Notices of an Event of Default or Potential Event of Default to:	Attn: PacifiCorp General Counsel Phone: (503) 813-5029 Facsimile: (503) 813-7252	

The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the date first above written.

PacifiCorp

Seller

DRAFT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
DESCRIPTION OF SELLER'S FACILITY
[Seller to Complete]

Seller's Facility consists of _____ generator(s) manufactured by _____ . More specifically, each generator at the Facility is described as:

Type (synchronous or inductive):

Model:

Number of Phases:

Rated Output (kW):

Rated Output (kVA):

Rated Voltage (line to line):

Rated Current (A): Stator: _____ A; Rotor: _____ A

Maximum kW Output: _____ kW **Maximum kVA Output:** _____ kVA

Minimum kW Output: _____ kW

Manufacturer's Guaranteed Cut-in Wind Speed [if applicable]:

Facility Capacity Rating: _____ kW at _____

Identify the maximum output of the generator(s) and describe any differences between that output and the Nameplate Capacity Rating:

Station service requirements, and other loads served by the Facility, if any, are described as follows:

Location of the Facility: The Facility is located in _____ County, Idaho. The location is more particularly described as follows:

[legal description of parcel]

Power factor requirements:

Rated Power Factor (PF) or reactive load (kVAR):

Attach documentation of the power curve for the generator(s).

EXHIBIT B

**POINT OF INTERCONNECTION / POINT OF DELIVERY / INTERCONNECTION
FACILITIES / TRANSMISSION PATH**

[Seller to provide its own diagram and description]

Instructions to Seller:

1. Include description of point of metering, and Point of Interconnection
2. Include description of Point of Delivery
3. Provide interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Interconnection.
4. Provide transmission single line drawing of the transmission path from the Point of Interconnection to the Point of Delivery as the path is defined in the Transmission Agreement(s).

**EXHIBIT C
REQUIRED FACILITY DOCUMENTS**

Qualifying Facility Number from FERC:

The following Documents are required to complete this project:

Facility Site Lease

Easements:

Permits:

Executed Transmission Services Agreement with Transmission Entity:

**EXHIBIT D
ENERGY DELIVERY SCHEDULE**

[Project Name]	
Scheduled Monthly Energy Delivery, kWh	Average kW/month
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	
TOTAL:	

Planned Outages. Seller will provide a Planned Outage schedule annually not to exceed _____ hours per _____ per year.

EXHIBIT E

START-UP TESTING

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to:

1. Test of mechanical and electrical equipment;
2. Calibration of all monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Point-to-point continuity tests;
6. Bench tests of protective devices; and
7. Tests required by manufacturer(s) and designer(s) of equipment.

Required start-up tests are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PacifiCorp's electrical system, which may include but are not limited to:

1. Turbine/generator mechanical runs and functionality;
2. System operation tests;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Excitation and voltage regulation operation tests;
7. Auto stop/start sequence;
8. Completion of any state and federal environmental testing requirements; and
9. Tests required by manufacturer(s) and designer(s) of equipment.

For wind projects only, the following Wind Turbine Generator Installation Checklists are required documents to be signed off by Manufacturer or Subcontract Category Commissioning Personnel as part of the Commissioning and startup testing:

Turbine Installation
Foundation Inspection
Controller Assembly
Power Cables

Cable Installation Checklists including:

Controller
Top Deck / Yaw Deck
Tower Top Section / Saddle
Mid Section Cables or buss bars
Base Section

Tower Base Section
Tower Lights and Outlets
Tower Mid Section
Tower Top Section
Nacelle
Rotor

DRAFT

EXHIBIT F-1
MOTIVE FORCE PLAN
WIND SPEED DATA SUMMARIES & HOURLY WIND PROFILE

EXHIBIT F-2

ENGINEER'S CERTIFICATION

(1) THAT THE WIND DATA SUMMARIES IN EXHIBIT F-1 ARE ACCURATE;

_____ [Licensed Professional Engineer's certification]

(2) THAT THE AVERAGE ANNUAL NET OUTPUT ESTIMATE IS _____ KWH PER YEAR IN EACH FULL CALENDAR YEAR OF THIS AGREEMENT BASED ON THE MOTIVE FORCE PLAN IN EXHIBIT F-1;

_____ [Licensed Professional Engineer's certification]

(3) THAT THE FACILITY, UNDER AVERAGE DESIGN CONDITIONS, LIKELY WILL GENERATE NO MORE THAN 10 aMW IN ANY CALENDAR MONTH.

_____ [Licensed Professional Engineer's certification]

EXHIBIT G
SAMPLE ENERGY PURCHASE PRICE CALCULATIONS

The following are samples of calculations of energy purchase prices using the formula and tables in Section 5.1. (TO BE COMPLETED)

EXHIBIT H

Seller Authorization to Release Generation Data to PacifiCorp

[Interconnection Customer Letterhead]

[Address to Interconnected Utility]

RE: _____ Interconnection Request

Dear Sir:

_____ [Seller] hereby voluntarily authorizes _____ [Interconnected Utility] to share _____ [Seller]'s generator interconnection information and generator meter data relating to _____ [Seller]'s _____ Qualifying Facility located in the town of _____, _____ County, _____ with Marketing Affiliate employees of PacifiCorp Energy, including, but not limited to those in the Commercial and Trading group. _____ [Seller] acknowledges that PacifiCorp did not provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.

Name

Title

Date

ADDENDUM W

GENERATION SCHEDULING ADDENDUM

WHEREAS, Seller's Facility will not interconnect directly to PacifiCorp Transmission's electric system;

WHEREAS, Seller and PacifiCorp Transmission have not executed, and will not execute, a generation interconnection agreement in conjunction with the Power Purchase Agreement;

WHEREAS, Seller has elected to exercise its right under PURPA to deliver Net Output from its QF Facility to PacifiCorp via one (or more) Transmitting Entities.

WHEREAS, PacifiCorp desires that Seller schedule delivery of Net Output to the Point of Delivery on a firm, hourly basis;

WHEREAS, PacifiCorp does not intend to buy, and Seller does not intend to deliver, more or less than Net Output from the Facility (except as expressly provided, below);

THEREFORE, Seller and PacifiCorp do hereby agree to the following, which shall become part of their Power Purchase Agreement:

DEFINITIONS

The meaning of the terms defined in the Power Purchase Agreement ("this Agreement") and this Addendum W shall apply to this Addendum:

"Day" means midnight to midnight, prevailing local time at the Point of Delivery, or any other mutually agreeable 24-hour period.

"Energy Imbalance Accumulation," or "EIA," means, for a given Settlement Period, the accumulated difference (beginning at zero (0) at the start of each Settlement Period) between Seller's Net Output and the energy actually delivered at the Point of Delivery. Each Settlement Period contains two independent EIAs, one for On-Peak Hours and one for Off-Peak Hours. A positive accumulated difference indicates Seller's delivery of Surplus Delivery.

"Firm Delivery" means uninterruptible transmission service that is reserved and/or scheduled between the Point of Interconnection and the Point of Delivery pursuant to Seller's Transmission Agreement(s).

"Settlement Period" means one month unless changed pursuant to Section 9 of this Addendum.

"Supplemented Output" means any increment of scheduled hourly energy or capacity delivered to the Point of Delivery in excess of the Facility's Net Output during that same hour.

"Surplus Delivery" means any energy delivered to the Point of Delivery by the Facility in excess of hourly Net Output that is not offset by the delivery of energy to the Point of Delivery in deficit of hourly Net Output during the Settlement Period. PacifiCorp shall accept Surplus Delivery, but shall not pay for it.

**SELLER'S OBLIGATIONS IN LIEU OF THOSE CONTAINED IN A
GENERATION INTERCONNECTION AGREEMENT.**

1. **Seller's Responsibility to Arrange for Delivery of Net Output to Point of Delivery.** Seller shall arrange for the Firm Delivery of Net Output to the Point of Delivery. Seller shall comply with the terms and conditions of the Transmission Agreement(s) between the Seller and the Transmitting Entity(s). Delivery of Net Output via non-firm transmission rights shall be considered a material breach under Section 12.1.2 of this Agreement.

2. **Seller's Responsibility to Schedule Delivery.** Seller shall coordinate with the Transmitting Entity(s) to provide PacifiCorp with a schedule of the next Day's hourly scheduled Net Output deliveries to the Point of Delivery at least 24 (twenty-four) hours prior to the beginning of the day being scheduled, and otherwise in accordance with the WECC Prescheduling Calendar (which is updated annually and may be downloaded at: <http://www.wecc.biz/>).

3. **Seller's Responsibility to Maintain Interconnection Facilities.** PacifiCorp shall have no obligation to install or maintain any interconnection facilities on Seller's side of the Point of Interconnection. PacifiCorp shall not pay any costs arising from Seller interconnecting its Facility with the Transmitting Entity(s).

4. **Seller's Responsibility to Pay Transmission Costs.** Seller shall make all arrangements for, and pay all costs associated with, transmitting firm delivery of Net Output to PacifiCorp, scheduling energy into the PacifiCorp system and any other costs associated with firm delivery of the Seller's Net Output to the Point of Delivery.

5. **Energy Reserve Requirements.** The Transmitting Entity(s) shall provide all generation reserves as required by the WECC and/or as required by any other governing agency or industry standard to deliver the Net Energy to the Point of Delivery, at no cost to PacifiCorp.

6. **Seller's Responsibility to Report Net Output.** On or before the tenth (10th) day following the end of each Billing Period, Seller shall send a report documenting hourly station service, Inadvertent Energy (energy delivered to the Point of Interconnection at an average hourly rate exceeding the Maximum Facility Delivery Rate), and Net Output from the Facility during the previous Billing Period, in columnar format substantially similar to the attached **Example 1**. If requested, Seller shall provide an electronic copy of the data used to calculate Net Output, in a standard format specified by PacifiCorp. For each day Seller is late delivering the certified report, PacifiCorp shall be entitled to postpone its payment deadline in Section 10.1 of this Agreement by one day. Seller hereby grants PacifiCorp the right to audit its certified reports of hourly Net Output. In the event of discovery of a billing error resulting in underpayment or overpayment, the Parties agree to limit recovery to a period of three years from the date of discovery.

7. **Seller's Supplemental Representations and Warranties.** In addition to the Seller's representations and warranties contained in Section 3.2 of this Agreement, Seller warrants that:

- (a) Seller's Supplemented Output, if any, results from Seller's purchase of some form of energy imbalance ancillary service;

(b) The Transmitting Entity(s) requires Seller to procure the service, above, as a condition of providing transmission service;

(c) The Transmitting Entity(s) requires Seller to schedule deliveries of Net Output to the Point of Delivery in increments of no less than one (1) megawatt;

(d) Seller is not attempting to sell PacifiCorp energy or capacity in excess of its Net Output; and

(e) The energy imbalance service, above, is designed to correct a mismatch between energy scheduled by the QF and the actual real-time production by the QF.

8. **Seller's Right to Deliver Supplemented Output.** In reliance upon Seller's warranties in Section 7 of this Addendum, PacifiCorp agrees to accept and pay for Supplemented Output by treating it as Net Output for those purposes; *provided, however, that* Seller agrees to achieve an EIA of zero (0) kilowatt-hours during On-Peak Hours and an EIA of zero (0) kilowatt-hours during Off-Peak Hours at the end of each Settlement Period.

(a) **Remedy for Seller's Positive Energy Imbalance Accumulations.** In the event Seller does not achieve zero (0) EIA at the end of a Settlement Period, any positive balance shall be Surplus Delivery and shall not be included in or treated as Net Output. PacifiCorp will include an accounting of Surplus Delivery in each monthly statement provided to Seller pursuant to Section 10.1 of this Agreement.

(b) **Negative Energy Imbalance Accumulations.** A negative EIA at the end of a Settlement Period (indicating that the Transmitting Entity has delivered less than Seller's Net Output) will not result in any corresponding compensation by PacifiCorp.

9. **PacifiCorp's Option to Change Settlement Period.** In the event PacifiCorp reasonably determines that doing so likely will have a *de minimis* net effect upon the cost of Seller's Net Output to PacifiCorp, it may elect to enlarge the Settlement Period, up to a maximum of one Contract Year. Conversely, if PacifiCorp reasonably determines, based on the QF's performance during the current year, that reducing the Settlement Period likely will significantly lower the net cost of Seller's Net Output to PacifiCorp, it shall have the right to shorten Seller's EIA settlement period beginning the first day of the following Contract Year. However, in no case shall the Settlement Period be less than one month. If a Settlement Period does not coincide with a Billing Period, PacifiCorp shall deduct any amount paid for Surplus Delivery during that Settlement Period from the Billing Period terminating concurrently or soonest subsequently to the Settlement Period.

Example of Seller's Output Reporting Requirement

		A	B	C (=A-B)	D	E (=Max (0, C-D))	F (C-E)
Day	Hour ending (HE)	Meter Reading ^ψ at Point of Interconnection (MWh)	Meter reading at Station Power Meter* (MWh)	Adjusted Gross Output (MWh)	Maximum Facility Delivery Rate (MW)	Inadvertent Energy (MWh)	Net Output (MWh)
1	7:00	0.50	0.01	0.49	1.50	0	0.49
1	8:00	0.50	0.02	0.48	1.50	0	0.48
1	9:00	0.50	0.01	0.49	1.50	0	0.49
1	10:00	0.50	0.01	0.49	1.50	0	0.49
1	11:00	0.50	0.01	0.49	1.50	0	0.49
1	12:00	1.60	0.01	1.59	1.50	0.09	1.50
1	13:00	1.70	0.01	1.69	1.50	0.19	1.50
1	14:00	1.60	0.01	1.59	1.50	0.09	1.50
1	15:00	1.50	0.01	1.49	1.50	0	1.49
1	16:00	1.50	0.01	1.50	1.50	0	1.50
1	17:00	1.50	0.00	1.50	1.50	0	1.50
1	18:00	1.50	0.01	1.49	1.50	0	1.49
1	19:00	0.50	0.02	0.48	1.50	0	0.48
1	20:00	0.50	0.01	0.49	1.50	0	0.49

ψ Seller shall show adjustment of Meter Reading for losses, if any, between point of metering and the Point of Interconnection, in accordance with Section 9.1.

* Does not apply if Station Service is provided from the gross output of the Facility.

Snow, Michael

From: James T. Carkulis [mtli@in-tch.com]
Sent: Wednesday, April 01, 2009 4:39 PM
To: Griswold, Bruce {Mkt Function}
Cc: Collin Rudeen; Younie, John
Subject: Re: PURPA contract requests

Bruce:

Let's move forward on a 20 MW project until we figure out the rest. Let's use XRG-DP 10 for now as the project.

Thank you.

Regards,

James T. Carkulis
Confidential & Proprietary
Successfully Merging Free Market Principles with Societal Expectations
Exergy Development Group, LLC
[p] 208.336.9793
[f] 208.336.9431
[m] 406.459.3013
[e] mtli@in-tch.com

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----- Original Message -----

From: Griswold, Bruce {Mkt Function}
To: James T. Carkulis
Cc: Collin Rudeen ; Younie, John
Sent: Monday, March 23, 2009 11:34 AM
Subject: RE: PURPA contract requests

James,

As a follow-up to your QF requests, we have worked through transmission alternatives at Borah for your six proposed QF projects. Based on your proposed delivery point to the Borah substation, we only have import capabilities to our Utah system to serve load from Brady on a firm basis of 23 MW total. Based on your requests, we can accommodate a single 20MW project. For a transaction at Borah, Pac would do redirect of existing Borah reservation to Brady to facilitate a 23MW transaction.

From your project submittals, you have four standard QF projects. We will need to know which of the standard projects you would like to proceed with. We are currently preparing a draft intermittent resource PPA and can provide you the document the end of this week or first of next week. As you are aware, new avoided costs have been approved for the standard QF PPA and are published on the Idaho PUC website.

Let me know if you have questions. I will forward you the draft PPA as soon as we finish it up.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office

503-702-1445 Cell
503-813-6260 Fax

From: James T. Carkulis [mailto:mtli@in-tch.com]
Sent: Tuesday, February 17, 2009 5:46 AM
To: Griswold, Bruce {Mkt Function}; Collin Rudeen; Lawrence R. Leib
Cc: Younie, John
Subject: Re: PURPA contract requests

Bruce:

I believe you have the motive force raw data and also compilations and analyses.

I would like to move both the 4 contract front and the 2 contract front forward as per your indication of getting these finished quickly.

We are conzigant of the filing by Rocky Mountain Power, but that should interfere with these negotiations.

We anticipate having online dates for these projects by 12-December-2010.

Regards,

James T. Carkulis
Confidential & Proprietary
Successfully Merging Free Market Principles with Societal Expectations
Exergy Development Group, LLC
[p] 208.336.9793
[f] 208.336.9431
[m] 406.459.3013
[e] mtli@in-tch.com

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----- Original Message -----

From: Griswold, Bruce {Mkt Function}
To: Collin Rudeen ; James Carkulis ; Lawrence R. Leib
Cc: Younie, John
Sent: Friday, January 23, 2009 3:04 PM
Subject: RE: PURPA contract requests

here is the call in information - the time is 9AM Mountain and 8AM Pacific.

Bruce Griswold from PacifiCorp has invited you to a Voice Conference (Mtg ID 121212) on JAN, 28 2009 at 8:00 AM America/Los_Angeles. If provided, use the following password: 121212

To attend a Voice Conference: Call **503-813-5600** (toll free #800-503-3360), follow the instructions provided and enter Mtg ID **121212** when prompted.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen
Sent: Friday, January 23, 2009 12:39 PM
To: Griswold, Bruce {Mkt Function}
Cc: Younie, John; Peter Richardson; James Carkulis; Lawrence R. Leib
Subject: Re: PURPA contract requests

Bruce,

Does 9:00, MST on Wednesday next week work for you guys? Pete will not be on the call. James and maybe Larry Leib will be on the call, in addition to myself.

Regards,
Collin

On Thu, Jan 22, 2009 at 10:18 AM, Griswold, Bruce {Mkt Function} <Bruce.Griswold@pacificorp.com> wrote:

Collin

Thanks for the documents. We will review and schedule a time to discuss all projects next week. Purpose of the call would be to clarify the submittals, schedules, and deliverables. Who should we schedule the call with? We would tentative look at Wednesday for a call.

If Pete will on the call, we will schedule to have our attorney also. Thanks.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen
Sent: Thursday, January 22, 2009 7:51 AM
To: Griswold, Bruce {Mkt Function}; Younie, John
Cc: Peter Richardson; James Carkulis
Subject: PURPA contract requests

John and Bruce,

Please see the three attached files, sent at Peter Richardson's request.

Regards,

--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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POWER PURCHASE AGREEMENT

BETWEEN

[a non-fueled, Intermittent Resource with Mechanical Availability Guarantee, Idaho Qualifying Facility—10aMW/Month or less]

AND

PACIFICORP

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT, entered into this _____ day of _____, 20____, is between _____ [Seller's name], an _____ [Seller's state of incorporation] _____ [corporation, partnership, or limited liability company] (the "Seller") and PacifiCorp, an Oregon corporation acting in its merchant function capacity ("PacifiCorp"). Seller and PacifiCorp are referred to collectively as the "Parties" and individually as a "Party".

RECITALS

A. Seller intends to construct, own, operate and maintain a _____ [state type of facility] facility for the generation of electric power located in _____ [City, County] with an expected Facility Capacity Rating of _____-kilowatts (kW) ("Facility").

B. Seller intends to operate the Facility as a Qualifying Facility; as such term is defined in Section 1.50 below.

C. Seller estimates that the average annual Net Output to be delivered by the Facility to PacifiCorp is _____ kilowatt-hours (kWh) ("Average Annual Net Output") pursuant to the monthly Energy Delivery Schedule in Exhibit D hereto, which amount of energy PacifiCorp will include in its resource planning.

D. PacifiCorp intends to designate Seller's Facility as a Network Resource for the purposes of serving Network Load.

E. This Agreement is a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol and, as such, the costs of QF energy under this Agreement shall be allocated as a system resource unless any portion of those costs exceeds the cost PacifiCorp would have otherwise incurred acquiring comparable resources. In that event, the Revised Protocol assigns those excess costs on a situs basis to the state in which the Facility is located. In addition, for the purposes of inter-jurisdictional cost allocation, PacifiCorp represents that the costs of this Agreement do not exceed the costs PacifiCorp would have otherwise incurred acquiring resources in the market that are defined as "Comparable Resources" in Appendix A to the Inter-Jurisdictional Cost Allocation Revised Protocol. For the purposes of inter-jurisdictional cost allocation, PacifiCorp represents that the costs and revenues from the energy and capacity sold to Seller by PacifiCorp will be assigned on a situs basis to the state to which Net Output from the Facility is delivered.

F. Seller has has not authorized Transmission Provider to release generation data to PacifiCorp. If yes, the authorization is attached as Exhibit H.

NOW, THEREFORE, the Parties mutually agree as follows:

SECTION 1: DEFINITIONS

When used in this Agreement, the following terms shall have the following meanings:

1.1 “**As-built Supplement**” shall be a supplement to **Exhibit A**, provided by Seller following completion of construction of the Facility, accurately describing the completed Facility.

1.2 “**Availability**” means, for any Billing Period, the ratio, expressed as a percentage, of (x) the aggregate sum of the turbine-minutes in which each of the Wind Turbines at the Facility was available to generate at the Maximum Facility Delivery Rate during the Billing Period over (y) the product of the number of Wind Turbines that comprise the Facility Capacity Rating as of Commercial Operation multiplied by the number of minutes in such Contract Year. A Wind Turbine shall be deemed not available to operate during minutes in which it is (a) in an emergency, stop, service mode or pause state; (b) in “run” status and faulted; or (c) otherwise not operational or capable of delivering at the Maximum Facility Delivery Rate to the Point of Delivery; unless if unavailable due solely to (i) a default by PacifiCorp; (ii) a curtailment in accordance with Section 6.2.1 or Section 6.2.2(b) or (d); or (iii) insufficient wind (including the normal amount of time required by the generating equipment to resume operations following a period when wind speed is below the Cut-In Wind Speed).

1.3 “**Billing Period**” means the time period between PacifiCorp's reading of its power purchase meter at the Facility and for this Agreement shall coincide with calendar months.

1.4 “**Commercial Operation**” means that not less than the 90% of the expected Facility Capacity Rating is fully operational and reliable and the Facility is fully interconnected, fully integrated, and synchronized with the System, all of which shall be Seller's responsibility to receive or obtain, and which occurs when all of the following events (i) have occurred, and (ii) remain simultaneously true and accurate as of the date and moment on which Seller gives PacifiCorp notice that Commercial Operation has occurred:

1.4.1 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer (a) stating the Facility Capacity Rating of the Facility at the anticipated time of Commercial Operation and (b) stating that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement.

1.4.2 Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**.

1.4.3 PacifiCorp has received a certificate (attached hereto as **Exhibit I**) addressed to PacifiCorp from a Licensed Professional Engineer, an attorney in good standing in Idaho, or a letter from Transmission Provider, stating that, in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with the System in conformance with the Generation Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement, and the Facility is fully integrated and synchronized with the System.

1.4.4 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer, or an attorney in good standing in Idaho, stating that

Seller has obtained all Required Facility Documents and, if requested by PacifiCorp in writing, Seller shall have provided copies of any or all such requested Required Facility Documents.

1.4.5 Seller has complied with the security requirements of Section 11.

Seller shall provide written notice to PacifiCorp stating when Seller believes that the Facility has achieved Commercial Operation and its Facility Capacity Rating accompanied by the certificates described above. PacifiCorp shall have ten days after receipt either to confirm to Seller that all of the conditions to Commercial Operation have been satisfied or have occurred, or to state with specificity what PacifiCorp reasonably believes has not been satisfied. If, within such ten day period, PacifiCorp does not respond or notifies Seller confirming that the Facility has achieved Commercial Operation, the original date of receipt of Seller's notice shall be the Commercial Operation Date. If PacifiCorp notifies Seller within such ten day period that PacifiCorp believes the Facility has not achieved Commercial Operation, Seller must address the concerns stated in PacifiCorp's notice to the mutual satisfaction of both Parties, and Commercial Operation shall occur on the date of such satisfaction, as specified in a notice from PacifiCorp to Seller. If Commercial Operation is achieved at less than one hundred percent (100%) of the expected Facility Capacity Rating, Seller shall provide PacifiCorp an expected date for achieving the expected Facility Capacity Rating, and the Facility Capacity Rating on that date shall be the final Facility Capacity Rating under this Agreement. In no event will delay in achieving the expected Facility Capacity Rating beyond the Commercial Operation Date postpone the Expiration Date specified in Section 2.1.

1.5 "**Commercial Operation Date**" means the date the Facility first achieves Commercial Operation.

1.6 "**Commission**" means the Idaho Public Utilities Commission.

1.7 "**Conforming Energy**" means all Net Energy except Non-Conforming Energy and Inadvertent Energy.

1.8 "**Conforming Energy Purchase Price**" means the applicable price for Conforming Energy and capacity, specified in Section 5.1.

1.9 "**Contract Year**" means a twelve (12) month period commencing at 00:00 hours Mountain Prevailing Time ("MPT") on January 1 and ending on 24:00 hours MPT on December 31; *provided, however,* that the first Contract Year shall commence on the Commercial Operation Date and end on the next succeeding December 31, and the last Contract Year shall end on the Expiration Date, unless earlier terminated as provided herein.

1.10 "**Curtailment Energy**" shall have the meaning set forth in Section 6.2.1 of this Agreement.

1.11 "**Cut-in Wind Speed**" means the wind speed at which a stationary wind turbine begins producing Net Energy, as specified by the turbine manufacturer and set forth in **Exhibit A**.

1.12 “**Delay Liquidated Damages**”, “**Delay Period**”, “**Delay Price**” and “**Delay Volume**” shall have the meanings set forth in Section 2.3 of this Agreement. “**Delay Security**” shall have the meaning set forth in Section 11.1.1 of this Agreement.

1.13 “**Default Security**” shall have the meaning set forth in Section 11.2 of this Agreement.

1.14 “**Effective Date**” shall have the meaning set forth in Section 2.1 of this Agreement.

1.15 “**Energy Delivery Schedule**” shall have the meaning set forth in Section 4.3 of this Agreement.

1.16 “**Environmental Attributes**” means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by PacifiCorp. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) Production Tax Credits or certain other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility, (ii) matters designated by PacifiCorp as sources of liability, or (iii) adverse wildlife or environmental impacts.

1.17 “**Expiration Date**” shall have the meaning set forth in Section 2.1 of this Agreement.

1.18 “**Facility**” means Seller’s project, including the Seller’s Interconnection Facilities, as described in the **Recitals, Exhibit A, and Exhibit B**.

1.19 “**Facility Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all generators comprising the Facility.

1.20 “**Force Majeure**” has the meaning set forth in Section 15.1.

1.21 “**Forced Outage**” means an outage that requires removal of one or more Wind Turbines from service, another outage state or a reserve shutdown state before the end of the next weekend. Maintenance Outages and Planned Outages are not Forced Outages.

1.22 “**Generation Interconnection Agreement**” means the generation interconnection agreement to be entered into separately between Seller and Transmission Provider, as applicable, specifying the Point of Delivery and providing for the construction and operation of the Interconnection Facilities.

1.23 **"Inadvertent Energy"** means: (1) energy delivered to the Point of Delivery in excess of the Maximum Monthly Purchase Obligation; and (2) energy delivered to the Point of Delivery at a rate exceeding the Maximum Facility Delivery Rate on an hour-averaged basis.

1.24 **"Index Price"** shall mean the average of: (1) the weighted average of the daily On-Peak and Off-Peak Dow Jones Mid-Columbia index prices for firm energy; and (2) the weighted average of the daily On-Peak and Off-Peak Dow Jones Palo Verde index (Dow Jones Palo Verde Index) prices for firm energy. For Sunday and NERC holidays, the 24-Hour Index Price shall be used, unless Dow Jones shall publish a Firm On-Peak and Firm Off-Peak Price for such days for Mid-C and Palo Verde, in which event such indices shall be utilized for such days. If the Dow Jones index or any replacement of that index ceases to be published during the term of this Agreement, PacifiCorp shall select as a replacement a substantially equivalent index that, after any appropriate or necessary adjustments, provides the most reasonable substitute for the index in question. PacifiCorp's selection shall be subject to Seller's consent, which Seller shall not unreasonably withhold, condition or delay.

1.25 **"Initial Year Energy Delivery Schedule"** shall have the meaning set forth in Section 4.3.1.

1.26 **"Interconnection Facilities"** means all the facilities and ancillary equipment used to interconnect the Facility to the System, as defined in the Generation Interconnection Agreement.

1.27 **"Licensed Professional Engineer"** means a person acceptable to PacifiCorp in its reasonable judgment who is licensed to practice engineering in the state of Idaho, who has training and experience in the engineering discipline(s) relevant to the matters with respect to which such person is called to provide a certification, evaluation and/or opinion, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made. The engagement and payment of a Licensed Professional Engineer solely to provide the certifications, evaluations and opinions required by this Agreement shall not constitute a prohibited economic relationship, association or nexus with the Seller, so long as such engineer has no other economic relationship, association or nexus with the Seller.

1.28 **"Maintenance Outage"** means any outage of one or more Wind Turbines that is not a Forced Outage or a Planned Outage. A Maintenance Outage is an outage that can be deferred until after the end of the next weekend, but that requires that the Wind Turbine(s) be removed from service before the next Planned Outage. A Maintenance Outage may occur any time during the year and must have a flexible start date.

1.29 **"Material Adverse Change"** shall mean, with respect to the Seller, if the Seller, in the reasonable opinion of PacifiCorp, has experienced a material adverse change in ability to fulfill its obligations under this Agreement.

1.30 **“Maximum Facility Delivery Rate”** means the maximum instantaneous rate (kW) at which the Facility is capable of delivering Net Output at the Point of Delivery, as specified in Exhibit A, and in compliance with the Generation Interconnection Agreement.

1.31 **“Maximum Monthly Purchase Obligation”** means the maximum amount of energy PacifiCorp is obligated to purchase under this Agreement in a calendar month. In accordance with Commission Order No. 29632, the Maximum Monthly Purchase Obligation for a given month, in kWh, shall equal 10,000 kW multiplied by the total number of hours in that month and prorated for any partial month.

1.32 **“Nameplate Capacity Rating”** means the maximum instantaneous generating capacity of any qualifying small power or cogeneration generating unit supplying all or part of the energy sold by the Facility, expressed in MW or kW, when operated consistent with the manufacturer’s recommended power factor and operating parameters, as set forth in a notice from Seller to PacifiCorp delivered before the Commercial Operation Date and, if applicable, updated in the As-built Supplement.

1.33 **“NERC”** means the North American Electric Reliability Corporation.

1.34 **“Net Energy”** means the energy component, in kWh, of Net Output.

1.35 **“Net Output”** means all energy and capacity produced by the Facility, less station use and less transformation and transmission losses and other adjustments, if any. For purposes of calculating payment under this Agreement, Net Output of energy shall be the amount of energy flowing through the Point of Delivery, less any station use not provided by the Facility. Net Output does not include Inadvertent Energy.

1.36 **“Network Resource”** shall have the meaning set forth in the Tariff.

1.37 **“Network Service Provider”** means PacifiCorp Transmission, as a provider of network service to PacifiCorp under the Tariff.

1.38 **“Non-Conforming Energy”** means Net Output produced by the Facility prior to the Commercial Operation Date.

1.39 **“Non-Conforming Energy Purchase Price”** means the applicable price for Non-Conforming Energy and capacity, specified in Section 5.1.

1.40 **“Off-Peak Hours”** means all hours of the week that are not On-Peak Hours.

1.41 **“On-Peak Hours”** means hours from 7:00 a.m. to 11:00 p.m. Mountain Prevailing Time, Monday through Saturday, excluding Western Electricity Coordinating Council (WECC) and North American Electric Reliability Corporation (NERC) holidays.

1.42 **“Output Shortfall”** and **“Output Shortfall Damages”** shall have the meanings set forth in Section 4.5 of this Agreement.

1.43 “**PacifiCorp**” is defined in the first paragraph of this Agreement, and excludes PacifiCorp Transmission.

1.44 “**PacifiCorp Transmission**” means PacifiCorp, an Oregon corporation, acting in its interconnection and transmission function capacity.

1.45 “**Planned Outage**” means an outage of predetermined duration that is scheduled in Seller’s Energy Delivery Schedule. Boiler overhauls, turbine overhauls or inspections are typical planned outages. Maintenance Outages and Forced Outages are not Planned Outages.

1.46 “**Point of Delivery**” means the high side of the generation step-up transformer(s) located at the point of interconnection between the Facility and the System, as specified in the Generation Interconnection Agreement and in **Exhibit B**.

1.47 “**Prime Rate**” means the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by JPMorgan Chase & Co. If a JPMorgan Chase & Co. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

1.48 “**Production Tax Credits**” means production tax credits under Section 45 of the Internal Revenue Code as in effect from time to time during the term hereof or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources and any correlative state tax credit determined by reference to renewable electric energy produced from wind resources for which the Facility is eligible.

1.49 “**Prudent Electrical Practices**” means any of the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Electrical Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

1.50 “**QF**” means “**Qualifying Facility**”, as that term is defined in the version of FERC Regulations (codified at 18 CFR Part 292) in effect on the date of this Agreement.

1.51 “**Required Facility Documents**” means all deeds, titles, leases, licenses, permits, authorizations, and agreements demonstrating that seller controls the necessary property rights and government authorizations to construct, operate, and maintain the Facility, including without limitation those set forth in **Exhibit C**.

1.52 “**Scheduled Commercial Operation Date**” means the date by which Seller promises to achieve Commercial Operation, as specified in Section 2.2.6.

1.53 “**Scheduled Monthly Energy Delivery**” means the Net Energy scheduled to be delivered during a given calendar month, as specified by Seller in the Energy Delivery Schedule.

1.54 “**Seller’s Forecast-Cost Share**” and “**Seller’s Capped Forecast-Cost Share**” shall have the meanings set forth in Sections 8.2 and 8.3 respectively.

1.55 “**Subsequent Energy Delivery Schedule**” shall have the meaning set forth in Section 4.3.3.

1.56 “**System**” means the electric transmission substation and transmission or distribution facilities owned, operated or maintained by Transmission Provider, which shall include, after construction and installation of the Facility, the circuit reinforcements, extensions, and associated terminal facility reinforcements or additions required to interconnect the Facility, all as set forth in the Generation Interconnection Agreement.

1.57 “**Tariff**” means the PacifiCorp Transmission FERC Electric Tariff Seventh Revised Volume No.11 Pro Forma Open Access Transmission Tariff or the Transmission Provider’s corresponding FERC tariff or both, as revised from time to time.

1.58 “**Transmission Provider**” means PacifiCorp Transmission or a successor, including any regional transmission organization (“**RTO**”).

1.59 “**Wind Turbine**” means a [description of intended wind turbine model]. At its full Facility Capacity Rating, the Facility will consist of ___ Wind Turbines.

SECTION 2: TERM, COMMERCIAL OPERATION DATE

2.1 This Agreement shall become effective after execution by both Parties and after approval by the Commission (“**Effective Date**”); *provided*, however, this Agreement shall not become effective until the Commission has determined that the prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by PacifiCorp for purchases of capacity and energy from Seller are legitimate expenses, all of which the Commission will allow PacifiCorp to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.

Unless earlier terminated as provided herein, the Agreement shall remain in effect until _____ [enter date that is no later than 20 years after the Scheduled Commercial Operation Date] (“**Expiration Date**”).

2.2 Time is of the essence of this Agreement, and Seller's ability to meet certain requirements prior to the Commercial Operation Date and to achieve Commercial Operation by the Scheduled Commercial Operation Date is critically important. Therefore,

2.2.1 By _____, Seller shall obtain and provide to PacifiCorp copies of all governmental permits and authorizations necessary for construction of the Facility.

2.2.2 By _____, Seller shall provide to PacifiCorp a copy of an executed Generation Interconnection Agreement, whose terms shall be consistent with the terms of this Agreement.

2.2.3 By the date 5 business days after the Effective Date, Seller shall provide Delay Security required under Section 11.1.1, as applicable.

2.2.4 By the date 30 calendar days after the Effective Date, Seller shall provide Default Security required under Section 11.2, as applicable.

2.2.5 Prior to Commercial Operation Date, Seller shall provide PacifiCorp with an As-built Supplement acceptable to PacifiCorp.

2.2.6 By _____, Seller shall have achieved Commercial Operation ("**Scheduled Commercial Operation Date**").

2.2.7 Beginning _____, Seller shall provide PacifiCorp a one-page monthly update by e-mail on the progress of the milestones in this Section 2.2.

2.3 Seller shall cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date. If Commercial Operation occurs after the Scheduled Commercial Operation Date, Seller shall be liable to pay PacifiCorp delay damages for the number of days ("**Delay Period**") the Commercial Operation Date occurs after the Scheduled Commercial Operation Date, up to a total of 120 days ("**Delay Liquidated Damages**").

Delay Liquidated Damages equals the sum of: the Delay Price times the Delay Volume, for each day of the Delay Period

Where:

"**Delay Price**" equals the positive difference, if any, of the Index Price minus the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices; and

"**Delay Volume**" equals the applicable Scheduled Monthly Energy Delivery divided by the number of days in that month.

The Parties agree that the damages PacifiCorp would incur due to delay in the Facility achieving Commercial Operation on or before the Scheduled Commercial Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1 PacifiCorp represents, covenants, and warrants to Seller that:

3.1.1 PacifiCorp is duly organized and validly existing under the laws of the State of Oregon.

3.1.2 PacifiCorp has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms of this Agreement.

3.1.3 PacifiCorp has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

3.1.4 Subject to Commission approval, the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on PacifiCorp or any valid order of any court, or any regulatory agency or other body having authority to which PacifiCorp is subject.

3.1.5 Subject to Commission approval, this Agreement is a valid and legally binding obligation of PacifiCorp, enforceable against PacifiCorp in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2 Seller represents, covenants, and warrants to PacifiCorp that:

3.2.1 Seller is a _____[corporation, partnership, or limited liability company] duly organized and validly existing under the laws of _____[state of Seller's incorporation].

3.2.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof, including all required regulatory authority to make wholesale sales from the Facility.

3.2.3 Seller's shareholders, directors, and officers have taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

3.2.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.

3.2.5 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general

principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2.6 The Facility is and shall for the term of this Agreement continue to be a QF. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission self-certification to PacifiCorp prior to PacifiCorp's execution of this Agreement. At any time PacifiCorp has reason to believe during the term of this Agreement that Seller's status as a QF is in question, PacifiCorp may require Seller to provide PacifiCorp with a written legal opinion from an attorney in good standing in the state of Idaho and who has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and providing sufficient proof (including copies of all documents and data as PacifiCorp may request) demonstrating that Seller has maintained and will continue to maintain the Facility as a QF.

3.2.7 Neither the Seller nor any of its principal equity owners is or has within the past two (2) years been the debtor in any bankruptcy proceeding, is unable to pay its bills in the ordinary course of its business, or is the subject of any legal or regulatory action, the result of which could reasonably be expected to impair Seller's ability to own and operate the Facility in accordance with the terms of this Agreement.

3.2.8 Seller has not at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.

3.2.9 Seller is not in default under any of its other agreements and is current on all of its financial obligations.

3.2.10 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility.

3.3 Notice. If at any time during this Agreement, any Party obtains actual knowledge of any event or information which would have caused any of the representations and warranties in this Section 3 to have been materially untrue or misleading when made, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

SECTION 4: DELIVERY OF POWER; AVAILABILITY GUARANTY

4.1 Delivery and Acceptance of Net Output. Unless otherwise provided herein, PacifiCorp will purchase and Seller will sell all Net Output from the Facility.

4.2 No Sales to Third Parties. During the term of this Agreement, Seller shall not sell any Net Output from the Facility to any entity other than PacifiCorp.

4.3 Energy Delivery Schedule. Seller shall prepare and provide to PacifiCorp, on an ongoing basis, a written schedule of Net Energy expected to be delivered by the Facility (“**Energy Delivery Schedule**”), in accordance with the following:

4.3.1 During the first twelve full calendar months following the Commercial Operation Date, Seller predicts that the Facility will produce and deliver the following monthly amounts (“**Initial Year Energy Delivery Schedule**”):

<u>Month</u>	<u>Energy Delivery (kWh)</u>
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

4.3.2 Seller may revise the Initial Year Energy Delivery Schedule any time prior to the Commercial Operation Date.

4.3.3 Beginning at the end of the ninth full calendar month of operation, and at the end of every 3rd month thereafter, Seller shall supplement the Energy Delivery Schedule with three additional months of forward estimates (which shall be appended to this Agreement as **Exhibit D**) (“**Subsequent Energy Delivery Schedule**”), such that the Energy Delivery Schedule will provide at least three months of scheduled energy estimates at all times. Seller shall provide Subsequent Energy Delivery Schedules no later than 5:00 pm of the 5th day after the due date. If Seller does not provide a Subsequent Energy Delivery Schedule by the above deadline, scheduled energy for the omitted period shall equal the amounts scheduled by Seller for the same three-month period during the previous year.

4.3.4 Beginning with the end of the third month after the Commercial Operation Date and at the end of every third month thereafter the Seller may not revise the immediate next three months of previously provided Energy Delivery Schedules. But by written notice given to PacifiCorp no later than 5:00 PM of the 5th day after the end of any such third month, the Seller may revise all other previously provided Energy

Delivery Schedules. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

4.4 Minimum Availability Obligation. Seller shall cause the Facility to achieve an Availability of at least 85% during each month (“**Guaranteed Availability**”).

4.5 Liquidated Damages for Output Shortfall. If the Availability in any given month falls below the Guaranteed Availability, the resulting shortfall shall be expressed in kWh as the “**Output Shortfall.**” The Output Shortfall shall be calculated in accordance with the following formula:

$$\text{Output Shortfall} = \frac{(\text{Guaranteed Availability} - \text{Availability}) * \text{Scheduled Monthly Energy Delivery}}$$

Seller shall pay PacifiCorp for any Output Shortfall at the lower of (1) the positive difference, if any, of the Index Price minus the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices; or (2) the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices (“**Output Shortfall Damages**”).

$$\text{Output Shortfall Damages} = \text{Output Shortfall} * \text{Output Shortfall Price}$$

Where:

$$\text{Output Shortfall Price} = \begin{cases} (\text{Index Price} - \text{Weighted Average CEPP}), & \text{except} \\ \text{that if Output Shortfall Price} < 0, & \text{then Output Shortfall Price} = 0 \end{cases}$$

$$\text{Weighted Average CEPP} = \text{the weighted average On-Peak and Off-Peak Conforming Energy Purchase Prices for the month of Output Shortfall}$$

If an Output Shortfall occurs in any given month, Seller may owe PacifiCorp liquidated damages. Each Party agrees and acknowledges that (a) the damages that PacifiCorp would incur due to the Facility’s failure to achieve the Guaranteed Availability would be difficult or impossible to predict with certainty, and (b) the liquidated damages contemplated in this Section 4.5 are a fair and reasonable calculation of such damages.

4.6 Audit Rights. In addition to data provided under Sections 9.2 and 9.3, PacifiCorp shall have the right, but not the obligation, to audit the Facility’s compliance with its Guaranteed Availability using any reasonable methods. Seller agrees to retain all performance related data for the Facility for a minimum of three years, and to cooperate with PacifiCorp in the event PacifiCorp decides to audit such data.

SECTION 5: PURCHASE PRICES

5.1 Energy Purchase Price. Except as provided in Section 5.3, PacifiCorp will pay Seller Conforming Energy or Non-Conforming Energy Purchase Prices for Net Output adjusted

for the month and On-Peak Hours or Off-Peak Hours and the wind integration cost using the following formulae, in accordance with Commission Order Nos. 30423, 30497, and 30744:

$$\text{Conforming Energy Purchase Price} = (\text{AR}_{ce} * \text{MPM}) - \text{WIC}$$

$$\text{Non-Conforming Energy Purchase Price} = (\text{AR}_{nce} * \text{MPM}) - \text{WIC}$$

Where:

AR_{ce} = Conforming Energy annual rate from Table 1, below, for the year of the Net Output.

AR_{nce} = *the lower of:*
 85% of the Conforming Energy annual rate from Table 1, below, for the year of Net Output

or

85% of weighted average of the daily On-Peak and Off-Peak Dow Jones Mid-Columbia index prices for firm energy for the month, or portion of month, of Net Output.

MPM = monthly On-Peak or Off-Peak multiplier from Table 2, below, that corresponds to the month of the Net Output and whether the Net Output occurred during On-Peak Hours or Off-Peak Hours.

WIC = \$5.10/MWh, the wind integration cost prescribed in Commission Order No. 30497.

Example calculations are provided in **Exhibit G**.

Table 1: Conforming Energy Annual Rates (from Commission Order No. 30744)*

Year	Conforming Energy Annual Rate (AR_{ce}) \$/MWh
2009	76.73
2010	75.83
2011	77.95
2012	80.24
2013	82.14
2014	84.09
2015	86.09
2016	88.25
2017	90.34
2018	92.60
2019	94.80
2020	97.05

* If Seller has elected levelized pricing for Net Output, additional security requirements in Section 11.2 apply.

2021	99.36
2022	101.73
2023	104.15
2024	106.64
2025	109.19
2026	112.30
2027	115.50
2028	118.80
2029	122.20
2030	125.71
2031	128.55

Table 2: Monthly On-Peak/Off-Peak Multipliers (from Commission Order No. 30423)

Month	On-Peak Hours	Off-Peak Hours
January	103%	94%
February	105%	97%
March	95%	80%
April	95%	76%
May	92%	63%
June	94%	65%
July	121%	92%
August	121%	106%
September	109%	99%
October	115%	105%
November	110%	96%
December	129%	120%

5.2 Payment.

For each Billing Period in each Contract Year, PacifiCorp shall pay Seller as follows:

For delivery of Conforming Energy:

$$\text{Payment} = (\text{CEnergy}_{\text{On-Peak}} * \text{CEPPrice}_{\text{On-Peak}} / 1000) + (\text{CEnergy}_{\text{Off-Peak}} * \text{CEPPrice}_{\text{Off-Peak}} / 1000)$$

For delivery of Non-Conforming Energy:

$$\text{Payment} = (\text{NCEnergy}_{\text{On-Peak}} * \text{NCEPPrice}_{\text{On-Peak}} / 1000) + (\text{NCEnergy}_{\text{Off-Peak}} * \text{NCEPPrice}_{\text{Off-Peak}} / 1000)$$

Where:

- CEnergy = Conforming Energy in kWh
- CEPPrice = Conforming Energy Purchase Price in \$/MWh
- NCEnergy = Non-Conforming Energy in kWh
- NCEPPrice = Non-Conforming Energy Purchase Price in \$/MWh
- On-Peak = the corresponding value for On-Peak Hours

Off-Peak = the corresponding value for Off-Peak Hours

5.3 Inadvertent Energy. PacifiCorp may accept Inadvertent Energy at its sole discretion, but will not purchase or pay for Inadvertent Energy.

SECTION 6: OPERATION AND CONTROL

6.1 Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, Prudent Electrical Practices and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code as such laws and code may be amended from time to time. PacifiCorp shall have no obligation to purchase Net Output from the Facility to the extent the interconnection between the Facility and PacifiCorp's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required as a result of Seller's non-compliance with the Generation Interconnection Agreement. PacifiCorp shall have the right to inspect the Facility to confirm that Seller is operating the Facility in accordance with the provisions of this Section 6 upon reasonable notice to Seller. Seller is solely responsible for the operation and maintenance of the Facility. PacifiCorp shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.

6.2 Energy Acceptance.

6.2.1 Voluntary Curtailment by PacifiCorp. Seller shall curtail deliveries of Net Output and associated Environmental Attributes at any time, in whole or in part, and for any duration specified by PacifiCorp with no less than ten (10) minutes (or such lesser time as may be provided for, as between Transmission Provider and Interconnection Provider, in the Generation Interconnection Agreement) prior notice (which may be given by telephone) from PacifiCorp to Seller. PacifiCorp shall take reasonable steps to confirm Seller's receipt of such notice. The MWh amount of Net Output curtailed pursuant to this Section 6.2.1 ("**Curtailment Energy**") shall be reasonably determined by Seller after the fact based on the amount of energy that could have been generated at the Facility and delivered to PacifiCorp as Net Output at the Point of Delivery but that was not generated and delivered because of the curtailment. Seller shall determine the quantity of Curtailment Energy based on (1) the time and duration of the curtailment period and (2) the number of MWhs that would have been generated based on the wind velocities recorded at the Facility during the period of curtailment and the tested and verified power curve for the Wind Turbines provided in **Exhibit A**. Seller shall promptly provide PacifiCorp with access to such information and data as PacifiCorp may reasonably require to confirm to its reasonable satisfaction the amount of Curtailment Energy. PacifiCorp shall pay Seller for the Curtailment Energy at the then applicable Conforming Energy Purchase Price. Notwithstanding any other provision hereof, during any period of curtailment pursuant to this Section 6.2.1, Seller shall not generate Net Output to the extent curtailed by PacifiCorp, or sell any portion of the Facility's energy to any third party. Notwithstanding the foregoing, PacifiCorp's

obligation to pay for Curtailment Energy pursuant to this Section 6.2.1 shall not apply during any times Seller would otherwise have been required to curtail pursuant to Section 6.2.2 and during any times prior to the Commercial Operation Date.

6.2.2 Required Curtailment. PacifiCorp shall not be obligated to purchase, receive or pay for Net Output (nor shall it be liable for associated unrealized Production Tax Credits or Environmental Attributes) that is not delivered to the Point of Delivery during times and to the extent that such Net Output is not delivered to the Point of Delivery because (a) the interconnection between the Facility and the System is disconnected, suspended or interrupted, in whole or in part, pursuant to the terms of the Generation Interconnection Agreement, (b) the Network Service Provider or Transmission Provider Curtails (as defined in the Tariff) Net Output or order PacifiCorp to curtail Net Output, (c) the Facility's Output is not received because the Facility is not fully integrated or synchronized with the System, or (d) an event of Force Majeure prevents either Party from delivering or receiving Net Output. The MWh amount of Net Output curtailed pursuant to this Section 6.2.2 shall be reasonably determined by Seller after the fact based on the amount of energy that could have been generated at the Facility and delivered to PacifiCorp as Net Output but that was not generated and delivered because of the curtailment. Seller shall determine the quantity of such curtailed energy based on (x) the time and duration of the curtailment period and (y) wind conditions recorded at the Facility during the period of curtailment and the tested and verified power curve for the Wind Turbines. Seller shall promptly provide PacifiCorp with access to such information and data as PacifiCorp may reasonably require to confirm to its reasonable satisfaction the amount of energy that was not generated or delivered because of a curtailment described in this Section 6.2.2.

6.2.3 PacifiCorp as Merchant. Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser under this Agreement, has no responsibility for or control over PacifiCorp Transmission or any successor Transmission Provider.

6.3 Outages.

6.3.1 Planned Outages. Except as otherwise provided herein, Seller shall not schedule Planned Outage during any portion of the months of [(list peak months) November, December, January, February, June, July, and August], except to the extent a Planned Outage is reasonably required to enable a vendor to satisfy a guarantee requirement in a situation in which the vendor is not otherwise able to perform the guarantee work at a time other than during one of the months specified above. Seller shall, in **Exhibit D**, provide PacifiCorp with an annual forecast of Planned Outages for each Contract Year at least one (1) month, but no more that three (3) months, before the first day of that Contract Year, and shall promptly update such schedule, or otherwise change it only, to the extent that Seller is reasonably required to change it in order to comply with Prudent Electrical Practices. Seller shall not schedule more than one hundred fifty (150) hours of Planned Outages for each calendar year. Seller shall not schedule any maintenance of Interconnection Facilities during such months, without the

prior written approval of PacifiCorp, which approval may be withheld by PacifiCorp in its sole discretion.

6.3.2 Maintenance Outages. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller shall notify PacifiCorp of the proposed Maintenance Outage as soon as practicable but in any event at least five (5) days before the outage begins (or such shorter period to which PacifiCorp may reasonably consent in light of then existing wind conditions). Upon such notice, the Parties shall plan the Maintenance Outage to mutually accommodate the reasonable requirements of Seller and the service obligations of PacifiCorp. Seller shall take all reasonable measures and use best efforts consistent with Prudent Electrical Practices to not schedule any Maintenance Outage during the following periods: [June 15 through June 30, July, August, and September 1 through September 15]. Seller shall include in such notice of a proposed Maintenance Outage the expected start date and time of the outage, the amount of generation capacity of the Facility that will not be available, and the expected completion date and time of the outage. Seller may provide notices under this Section 6.3.2 orally. Seller shall confirm any such oral notification in writing as soon as practicable. PacifiCorp shall promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller shall use all reasonable efforts to comply with PacifiCorp's request to modify the schedule for a Maintenance Outage if such modification has no substantial impact on Seller. Seller shall notify PacifiCorp of any subsequent changes in generation capacity of the Facility during such Maintenance Outage and any changes in the Maintenance Outage completion date and time. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to minimize the frequency and duration of Maintenance Outages.

6.3.3 Forced Outages. Seller shall promptly provide to PacifiCorp an oral report, via telephone to a number specified by PacifiCorp, of any Forced Outage of the Facility. Such report shall include the amount of generation capacity of the Facility that will not be available because of the Forced Outage and the expected return date and time of such generation capacity. Seller shall promptly update the report as necessary to advise PacifiCorp of changed circumstances. If the Forced Outage resulted in more than 15% of the Facility Capacity Rating of the Facility being unavailable, Seller shall confirm the oral report in writing as soon as practicable. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to avoid Forced Outages and to minimize their duration.

6.3.4 Notice of Deratings and Outages. Without limiting other notice requirements, Seller shall notify PacifiCorp, via telephone to a number specified by PacifiCorp, of any limitation, restriction, derating or outage known to Seller that affects the generation capacity of the Facility in an amount greater than five percent (5%) of the Facility Capacity Rating for the following day. Seller shall promptly update such notice to reflect any material changes to the information in such notice.

6.3.5 Effect of Outages on Estimated Output. Seller shall factor Planned Outages and Maintenance Outages that Seller reasonably expects to encounter in the

ordinary course of operating the Facility into the Scheduled Monthly Energy Delivery amounts in the Energy Delivery Schedule set forth in **Exhibit D**.

6.4 Scheduling.

6.4.1 Daily Scheduling. [provide if applicable]

6.4.2 Cooperation and Standards. With respect to any and all scheduling requirements in this Agreement, (a) Seller shall cooperate with PacifiCorp with respect to scheduling Net Output, and (b) each Party shall designate authorized representatives to communicate with regard to scheduling and related matters arising hereunder.

6.4.3 Schedule Coordination. If, as a result of this Agreement, PacifiCorp is deemed by an RTO to be financially responsible for Seller's performance under the Generation Interconnection Agreement due to Seller's lack of standing as a "scheduling coordinator" or other RTO recognized designation, qualification or otherwise, then (a) Seller shall acquire such RTO recognized standing (or shall contract with a third party who has such RTO recognized standing) such that PacifiCorp is no longer responsible for Seller's performance under the Generation Interconnection Agreement, and (b) Seller shall defend, indemnify and hold PacifiCorp harmless against any liability arising due to Seller's performance or failure to perform under the Generation Interconnection Agreement or RTO requirement.

6.5 Delivery Exceeding the Maximum Facility Delivery Rate. Seller shall not deliver energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Facility Delivery Rate. Seller's failure to limit such deliveries to the Maximum Facility Delivery Rate shall be a material breach of this Agreement.

6.6 Increase to the Maximum Facility Delivery Rate. Seller may, in accordance with this Section 6.6 and upon written approval by PacifiCorp, increase the Maximum Facility Delivery Rate, unless, after such increase, under normal or average design conditions the Net Output would exceed the Maximum Monthly Purchase Obligation in any given month. PacifiCorp approval of such increase is conditioned on the Public Utility Regulatory Policies Act (16 U.S.C. 824a-3) and other applicable law requiring PacifiCorp to purchase the incremental Net Output. If Seller increases the Maximum Facility Delivery Rate, PacifiCorp will continue to pay for base Net Output at the rate(s) prescribed by Section 5 of this Agreement, and PacifiCorp will pay for incremental Net Output resulting from the increase to the Maximum Facility Delivery Rate at the rate(s) prescribed by the Commission at the time of PacifiCorp's approval, if granted, of the increase in the Maximum Facility Delivery Rate. PacifiCorp shall, in its approval, if granted, specify a reasonable means of distinguishing such base Net Output from such incremental Net Output.

SECTION 7: MOTIVE FORCE

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp a motive force plan including an hourly wind profile acceptable to PacifiCorp in its reasonable discretion and attached hereto as **Exhibit F-1**, together with a certification from a Licensed Professional

Engineer to PacifiCorp attached hereto as **Exhibit F-2**, certifying that the implementation of the fuel or motive force plan can reasonably be expected to provide fuel or motive force to the Facility for the duration of this Agreement adequate to generate power and energy in quantities necessary to deliver the Average Annual Net Output.

SECTION 8: GENERATION FORECASTING COSTS

8.1 Forecast Service Election. PacifiCorp may, in its discretion, add forecasting services for Seller's Facility to PacifiCorp's existing contract with a qualified wind-energy-production forecasting vendor, which contract and vendor may change during the term of this Agreement.

8.2 Seller's Forecast-Cost Share. Pursuant to Commission Order No. 30497, Seller shall be responsible for 50% of PacifiCorp's cost of adding such forecasting services ("**Seller's Forecast-Cost Share**") up to Seller's Capped Forecast-Cost Share.

8.3 Cap on Seller's Forecast-Cost Share. Seller's Forecast-Cost Share for a given Contract Year is capped at 0.1% of total payments made by PacifiCorp to Seller for Net Output during the previous Contract Year ("**Seller's Capped Forecast-Cost Share**"). If the last Contract Year of this Agreement is shorter than a full calendar year, the cap will be prorated for that shortened year. For the year(s) prior to the second Contract Year of this agreement that equals a full calendar year, Seller's Forecast-Cost Share is capped at 0.1% of estimated payments for Net Output based on the Energy Delivery Schedule.

8.4 Payment. Seller shall pay to PacifiCorp Seller's Forecast-Cost Share uncapped by Section 8.3 for each Contract Year in equal payments for each month of such year except the last month of such year. (For example, in a Contract Year equaling a full calendar year, Seller would pay 1/11th of Seller's Forecast-Cost Share during each of the first 11 months.) In the last month of each Contract Year, PacifiCorp shall refund to Seller the amount paid by Seller under this Section in excess, if any, of Seller's Capped Forecast-Cost Share. For a Contract Year encompassed by just one calendar month, Seller's payment to PacifiCorp and PacifiCorp's refund to Seller shall be calculated and paid simultaneously. To the extent practicable, payments and refunds under this Section shall be included in monthly payments and invoices under Section 10.

SECTION 9: METERING; REPORTS AND RECORDS

9.1 Metering Equipment. PacifiCorp shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment required pursuant to the Generation Interconnection Agreement.

9.1.1 Location of Metering Equipment. Metering shall be performed at the location and in the manner specified in **Exhibit B** and the Generation Interconnection Agreement. All quantities of energy purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of Delivery, so that the purchased amount reflects the net amount of power flowing into PacifiCorp's system

at the Point of Delivery. The loss adjustment shall be a reduction of 2% of the kWh energy production recorded on the Facility output meter until actually measured and calibrated at the meter by PacifiCorp.

9.1.2 Maintenance of Metering Equipment. PacifiCorp shall periodically inspect, test, repair and replace the metering equipment as provided in the Generation Interconnection Agreement or at the request of Seller if Seller has reason to believe metering may be off and requests an inspection in writing. Seller shall bear the cost for any Seller requests. If any of the inspections or tests disclose an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three Billing Periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.

9.1.3 Costs of Metering Equipment. To the extent not otherwise provided in the Generation Interconnection Agreement, all PacifiCorp's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

9.2 Telemetry. Seller shall provide telemetry equipment and facilities capable of transmitting the following information concerning the Facility pursuant to the Generation Interconnection Agreement and to PacifiCorp on a real-time basis, and will operate such equipment when requested by PacifiCorp to indicate:

- (a) instantaneous MW output at the Point of Delivery;
- (b) Net Output; and
- (c) the Facility's total instantaneous generation capacity.

Seller shall also transmit to PacifiCorp any other data from the Facility that Seller receives on a real-time basis, including meteorological data, wind speed data, wind direction data and gross output data. Seller shall provide such real-time data to PacifiCorp in the same detail that Seller receives the data (e.g., if Seller receives the data in four second intervals, PacifiCorp shall also receive the data in four second intervals). PacifiCorp shall have the right from time to time to require Seller to provide additional telemetry equipment and facilities to the extent necessary and reasonable.

9.3 Monthly Reports and Logs. Within thirty (30) days after the end of each Billing Period, Seller shall provide to PacifiCorp the following:

9.3.1 Reports. A report in electronic format, which report shall include (a) summaries of the Facility's wind and output data for the Billing Period in intervals not to exceed one hour (or such shorter period as is reasonably possible with commercially available technology), including information from the Facility's computer monitoring

system; (b) summaries of any other significant events related to the construction or operation of the Facility for the Billing Period; (c) details of Availability of the Facility for the Billing Period sufficient to calculate Availability and including hourly average wind velocity measured at turbine hub height and ambient air temperature; and (d) any supporting information that PacifiCorp may from time to time reasonably request (including historical wind data for the Facility).

9.3.2 Electronic Fault Log. Seller shall maintain an electronic fault log of operations of the Facility during each hour of the term of this Agreement commencing on the Commercial Operation Date. Seller shall provide PacifiCorp with a copy of the electronic fault log within thirty (30) days after the end of the Billing Period to which the fault log applies.

9.4 Cost of Performance Monitoring. Seller shall pay for and design, furnish, install, own, inspect, test, maintain and replace all equipment required in order to record data required for the reports and logs in Sections 9.3.

SECTION 10: BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 Payment for Net Output. On or before the thirtieth (30th) day following the end of each Billing Period, PacifiCorp shall send to Seller payment for Seller's deliveries of Net Output to PacifiCorp, together with computations supporting such payment. PacifiCorp may offset any such payment to reflect amounts owing from Seller to PacifiCorp pursuant to this Agreement, the Generation Interconnection Agreement, and any other agreement(s) between the Parties. Any such offsets shall be separately itemized on the statement accompanying each payment to Seller.

10.2 Annual Invoicing for Output Shortfall. Thirty calendar days after the end of each Contract Year, PacifiCorp shall deliver to Seller an invoice showing PacifiCorp's computation of Output Shortfall, if any, for all Billing Periods in the prior Contract Year and Output Shortfall Damages, if any. In preparing such invoices, PacifiCorp shall utilize the meter data provided to PacifiCorp for the Contract Year in question, but may also rely on historical averages and such other information as may be available to PacifiCorp at the time of invoice preparation if the meter data for such Contract Year is then incomplete or otherwise not available. To the extent required, PacifiCorp shall prepare any such invoice as promptly as practicable following its receipt of actual results for the relevant Contract Year. Seller shall pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice, and shall within thirty (30) days after receiving the invoice raise any objections regarding any disputed portion of the invoice. Objections not made by Seller within the thirty-day period shall be deemed waived.

10.3 Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; *provided, however*, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.

10.4 Disputed Amounts. If either Party, in good faith, disputes any amount due pursuant to an invoice rendered hereunder, such Party shall notify the other Party of the specific

basis for the dispute and, if the invoice shows an amount due, shall pay that portion of the statement that is undisputed, on or before the due date. Except with respect to invoices provided under Section 10.2, any such notice shall be provided within two (2) years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due to the other Party, or if the Parties resolve the payment dispute, the amount due shall be paid within five (5) days after such determination or resolution, along with interest in accordance with Section 10.3.

SECTION 11: SECURITY

11.1 Delay Security:

11.1.1 Duty to Post Security. Seller, within 5 business days after IPUC approval of this Agreement, shall post a letter of credit in the amount of _____ (“**Delay Security**”). The letter of credit shall be an irrevocable standby letter of credit, from an institution that has a long-term senior unsecured debt rating of “A” or greater from Standard & Poors or “A2” or greater from Moody’s, in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests thereunder. To the extent PacifiCorp’s draws on the letter of credit cause the remaining balance of the letter of credit to drop below _____, Seller, within 15 calendar days, shall restore the letter of credit to no less than \$_____.

11.1.2 Right to Draw on Security. PacifiCorp shall have the right to draw on the Delay Security to collect Delay Liquidated Damages. Commencing on or about first of each month, PacifiCorp will invoice Seller for Delay Liquidated Damages incurred, if any, during the preceding month. If Seller fails to pay any undisputed amount within 30 calendar days of the invoice date, PacifiCorp shall draw such amount on the Delay Security. The Parties will make billings and payments for Delay Liquidated Damages in accordance with Section 10.

11.1.3 Additional Security. In the event PacifiCorp reasonably determines at any time that the remaining amount of Delay Security is less than the estimated value of Delay Liquidated Damages (due to upward changes in market price and/or due to Seller’s inability to meet the Scheduled Commercial Operation Date), PacifiCorp may demand that Seller post, and Seller will post within 5 business days of receipt of such demand, additional Delay Security equal to the estimated (unpaid) Delay Liquidated Damages.

11.1.4 Termination of Letter of Credit. Unless PacifiCorp disputes whether Seller has paid all Delay Liquidated Damages, Seller may terminate the Delay Security letter of credit on or after the 180th calendar day following commencement of Commercial Operation by providing PacifiCorp with no less than thirty-day advance written notice of its intent to do so.

11.1.5 Default. Seller’s failure to post and maintain Delay Security in accordance with Section 11.1 will constitute an event of default, unless cured in accordance with Section 12.1.1 of this Agreement.

11.2 Default Security (Levelized Pricing Only). If Seller has adopted levelized pricing for Net Output, Seller will provide security to PacifiCorp pursuant to Commission Order Nos. 21690, 21800, 29482, 29587 and related orders ("**Default Security**") as set forth in Addendum ___ [add addendum if Seller elects levelized pricing].

SECTION 12: DEFAULTS AND REMEDIES

12.1 The following events shall constitute defaults under this Agreement:

12.1.1 Non-Payment. Seller's failure to make a payment when due under this Agreement or post and maintain security in conformance with the requirements of Section 11 or maintain insurance in conformance with the requirements of Section 14 of this Agreement, if the failure is not cured within ten (10) business days after the non-defaulting Party gives the defaulting Party a notice of the default.

12.1.2 Breach of Material Term. Breach by a Party of a representation or warranty set forth in this Agreement, if such failure or breach is not cured within thirty (30) days following written notice.

12.1.3 Default on Other Agreements. Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Generation Interconnection Agreement) within the time allowed for a cure under such agreement or instrument.

12.1.4 Insolvency. A Party (a) makes an assignment for the benefit of its creditors; (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (c) becomes insolvent; or (d) is unable to pay its debts when due.

12.1.5 Material Adverse Change. A Material Adverse Change has occurred with respect to Seller and Seller fails to provide such performance assurances as are reasonably requested by PacifiCorp, within fifteen (15) days from the date of such request.

12.1.6 Sale to Third-Party. Seller's sale of Net Output to an entity other than PacifiCorp, as prohibited by Section 4.2.

12.1.7 Non-Delivery. Unless excused by an event of Force Majeure, Seller's failure to deliver any Net Energy for three consecutive calendar months.

12.1.8 A Party otherwise fails to perform any material obligation (including but not limited to failure by Seller to meet any deadline set forth in Section 2.2) imposed upon that Party by this Agreement if the failure is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party notice of the default; *provided, however*, that, upon written notice from the defaulting Party, this thirty (30) day period

shall be extended by an additional ninety (90) days if (a) the failure cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional ninety (90) day period, and (c) the defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

12.2 In the event of any default hereunder, the non-defaulting Party must notify the defaulting Party in writing of the circumstances indicating the default and outlining the requirements to cure the default. If the default has not been cured within the prescribed time, above, the non-defaulting Party may terminate this Agreement at its sole discretion by delivering written notice to the other Party and may pursue any and all legal or equitable remedies provided by law or pursuant to this Agreement. The rights provided in this Section 12 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.

12.3 In the event this Agreement is terminated because of Seller's default and Seller wishes to again sell Net Output from the facility using the same motive force to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller do so subject to the terms of this Agreement, including but not limited to the purchase prices as set forth in (Section 5), until the Expiration Date (as set forth in Section 2.1). At such time Seller and PacifiCorp agree to execute a written document ratifying the terms of this Agreement.

12.4 If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp for Output Shortfall for a period of eighteen (18) months from the date of termination plus the estimated administrative cost to acquire the replacement power.

12.5 Recoupment of Damages.

- (a) Default Security Available. If Seller has posted Default Security, PacifiCorp may draw upon that security to satisfy any damages, above.
- (b) Default Security Unavailable. If Seller has not posted Default Security, or if PacifiCorp has exhausted the Default Security, PacifiCorp may collect any remaining amount owing by partially withholding future payments to Seller over a reasonable period of time. PacifiCorp and Seller shall work together in good faith to establish the period, and monthly amounts, of such withholding so as to avoid Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility.

12.6 Upon an event of default or termination event resulting from default under this Agreement, in addition to and not in limitation of any other right or remedy under this Agreement or applicable law (including any right to set-off, counterclaim, or otherwise withhold payment), the non-defaulting Party may at its option set-off, against any amounts owed to the defaulting Party, any amounts owed by the defaulting Party under any contract(s) or agreement(s) between the Parties. The obligations of the Parties shall be deemed satisfied and discharged to the extent of any such set-off. The non-defaulting Party shall give the defaulting Party written notice of any set-off, but failure to give such notice shall not affect the validity of the set-off.

12.7 Amounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PacifiCorp for the same.

SECTION 13: INDEMNIFICATION

13.1 Indemnities.

13.1.1 **Indemnity by Seller.** Seller shall release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (a) the energy delivered by Seller under this Agreement to and at the Point of Delivery, (b) any facilities on Seller's side of the Point of Delivery, (c) Seller's operation and/or maintenance of the Facility, or (d) arising from this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PacifiCorp, Seller or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of PacifiCorp, its directors, officers, employees, agents or representatives.

13.1.2 **Indemnity by PacifiCorp.** PacifiCorp shall release, indemnify and hold harmless Seller, its directors, officers, agents, lenders and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with the energy delivered by Seller under this Agreement after the Point of Delivery, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of Seller, its directors, officers, employees, agents, lenders or representatives.

13.2 **No Dedication.** Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PacifiCorp as an independent public utility corporation or Seller as an independent individual or entity.

13.3 **CONSEQUENTIAL DAMAGES.** EXCEPT TO THE EXTENT SUCH DAMAGES ARE INCLUDED IN THE LIQUIDATED DAMAGES, DELAY DAMAGES, OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE.

SECTION 14: LIABILITY AND INSURANCE

14.1 Certificates and Certified Copies of Policies. Seller shall provide PacifiCorp with certificates of insurance evidencing the policies contemplated by Section ___ prior to the date by which such policies are required to be maintained as set forth in Section ___. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims-made." PacifiCorp shall have the right to request certified "true and correct" copies of the insurance policies at any time during the term of the Agreement and Seller shall furnish to PacifiCorp within 30 days of the request.

14.2 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller under this Agreement, prior to the commencement of interconnection with the System and until the termination of this Agreement, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by A.M. Best Company (or with a company or companies having equivalent rating) the following insurance coverage:

14.2.1 Employers' Liability insurance with limits of at least \$1,000,000;

14.2.2 Commercial General Liability insurance with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence. Such insurance shall include, but not necessarily be limited to, specific coverage for contractual liability encompassing the indemnification provisions in this Agreement, broad form property damage liability, personal injury liability, explosion and collapse hazard coverage, products/completed operations liability, and, where applicable, watercraft protection and indemnity liability;

14.2.3 Excess Umbrella Liability insurance with a single limit of at least \$20,000,000 per occurrence in excess of the limits of insurance provided above; and

14.2.4 All-Risk insurance in an amount at least equal to the 80% of the replacement value of the Facility. The policy shall provide coverage in an amount equal to the full replacement value of the Facility for "all risks" of physical loss or damage except as hereinafter provided, including coverage for earth movement, flood, boiler and machinery, transit and off-site storage accident exposure, but excluding the equipment owned or leased by Operator and its subcontractors and their personal property. The policy may contain separate sublimits and deductibles subject to insurance company underwriting guidelines. Seller shall maintain the policy in accordance with terms available in the insurance market for similar electric generating facilities. The policy shall include coverage for business interruption in an amount covering a period of indemnity equal to twelve (12) months.

14.3 Insurance Structure. Seller may satisfy the amounts of insurance required in Section 14.2 above by purchasing primary coverage in the amounts specified or by buying a separate excess umbrella liability policy together with lower limit primary underlying coverage. The structure of the coverage is at Seller's option, but the total amount of insurance must meet the above requirements.

14.4 Occurrence-Based Coverage. The coverage required above, and any umbrella or excess coverage, shall be “occurrence” form policies. In the event that any policy is written on a “claims-made” basis and such policy is not renewed or the retroactive date of such policy is to be changed, the first insured Party shall obtain or cause to be obtained for each such policy or policies the broadest basic and supplemental extended reporting period coverage or “tail” reasonably available in the commercial insurance market for each such policy or policies and shall provide the other Party with proof that such basic and supplemental extended reporting period coverage or “tail” has been obtained.

14.5 Endorsement Items. Seller shall immediately cause its insurers to amend its Commercial General Liability and Umbrella or Excess Liability policies with all of the following endorsement items, and to amend its Workers’ Compensation and Auto Liability policies with the endorsement items set forth in Sections 14.5.3 and 14.5.4 below:

14.5.1 PacifiCorp and its Affiliates, their respective directors, officers, employees, and agents as an additional insured under this policy and to the maximum extent allowed by law, shall be provided with coverages at least as broad as those required of the Seller by this Agreement;

14.5.2 This insurance is primary with respect to the interest of PacifiCorp and its Affiliates, their respective directors, officers, employees, and agents; and any other insurance maintained by them in excess and not contributory with this insurance;

14.5.3 Insurer hereby waives all rights of subrogation against PacifiCorp and its Affiliates, their respective directors, officers, employees, and agents; and

14.5.4 Notwithstanding any provision of the policy, this policy may not be canceled, non-renewed or materially changed by the insurer without giving ten (10) days’ prior written notice to PacifiCorp.

14.6 Periodic Review. PacifiCorp may review this schedule of required insurance provided in Section 14 as often as once every two (2) years. PacifiCorp may in its discretion require the Seller to make changes to the insurance coverage requirements in this Section 14 to the extent reasonably necessary to cause such policies and coverages to conform to the insurance policies and coverages typically obtained or required for power generation facilities comparable to the Facility at the time of PacifiCorp’s review takes place with the consent of Seller, which shall not be unreasonably withheld.

SECTION 15: FORCE MAJEURE

15.1 As used in this Agreement, “**Force Majeure**” or “**an event of Force Majeure**” means any cause beyond the reasonable control of the Seller or of PacifiCorp which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, flood, storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority which is in each case (i) beyond the reasonable control of

such Party, (ii) by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and (iii) by the exercise of due diligence, such Party shall be unable to prevent or overcome. Force Majeure, however, specifically excludes the cost or availability of fuel or motive force to operate the Facility or changes in market conditions that affect the price of energy or transmission. If either Party is rendered wholly or in part unable to perform its obligation under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

15.1.1 the non-performing Party, shall, within two (2) weeks after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence, including the start date of the Force Majeure, the cause of Force Majeure, whether the Facility remains partially operational and the expected end date of the Force Majeure;

15.1.2 the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure;

15.1.3 the non-performing Party uses its best efforts to remedy its inability to perform; and

15.1.4 the non-performing Party shall provide prompt written notice to the other Party at the end of the Force Majeure event detailing the end date, cause there of, damage caused there by and any repairs that were required as a result of the Force Majeure event, and the end date of the Force Majeure.

15.2 No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

15.3 Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

SECTION 16: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

SECTION 17: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Idaho, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

SECTION 18: PARTIAL INVALIDITY

It is not the intention of the Parties to violate any laws governing the subject matter of this Agreement. If any of the terms of the Agreement are finally held or determined to be invalid, illegal or void as being contrary to any applicable law or public policy, all other terms of the Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties to this Agreement.

SECTION 19: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

SECTION 20: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

PacifiCorp's compliance with the terms of this Agreement is conditioned on Seller's submission to PacifiCorp prior to the Commercial Operation Date and Seller's maintenance thereafter of copies of all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility.

SECTION 21: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any entity with which PacifiCorp may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of PacifiCorp's rights, obligations, and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. PacifiCorp shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

SECTION 22: ENTIRE AGREEMENT

22.1 This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding PacifiCorp's purchase of Net Output from the Facility. No modification of this Agreement shall be effective unless it is in writing and signed by both Parties.

22.2 By executing this Agreement, each Party releases the other from any claims, known or unknown, that may have arisen prior to the Effective Date with respect to the Facility and any predecessor facility proposed to have been constructed on the site of the Facility.

SECTION 23: NOTICES

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested.

Notices	PacifiCorp	Seller
All Notices	PacifiCorp 825 NE Multnomah Street Portland, OR 97232 Attn: Contract Administration, Suite 600 Phone: (503) 813 - 5952 Facsimile: (503) 813 - 6291 Duns: 00-790-9013 Federal Tax ID Number: 93-0246090	
All Invoices:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
Scheduling:	Attn: Resource Planning, Suite 600 Phone: (503) 813 - 6090 Facsimile: (503) 813 - 6265	
Payments:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
Wire Transfer:	Bank One N.A. To be provided in separate letter from PacifiCorp to Seller	
Credit and Collections:	Attn: Credit Manager, Suite 1900 Phone: (503) 813 - 5684 Facsimile: (503) 813-5609	
With Additional Notices of an Event of Default or Potential Event of Default to:	Attn: PacifiCorp General Counsel Phone: (503) 813-5029 Facsimile: (503) 813-7252	

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The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the date first above written.

PacifiCorp

Seller

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
DESCRIPTION OF SELLER'S FACILITY
[Seller to Complete]

Seller's Facility consists of _____ generator(s) manufactured by _____ . More specifically, each generator at the Facility is described as:

Type (synchronous or inductive):

Model:

Number of Phases:

Rated Output (kW):

Rated Output (kVA):

Rated Voltage (line to line):

Rated Current (A): Stator: _____ A; Rotor: _____ A

Maximum kW Output: _____ kW **Maximum kVA Output:** _____ kVA

Minimum kW Output: _____ kW

Manufacturer's Guaranteed Cut-in Wind Speed [if applicable]:

Facility Capacity Rating: _____ kW at _____

Identify the maximum output of the generator(s) and describe any differences between that output and the Nameplate Capacity Rating:

Station service requirements, and other loads served by the Facility, if any, are described as follows:

Location of the Facility: The Facility is located in _____ County, Idaho. The location is more particularly described as follows:

[legal description of parcel]

Power factor requirements:

Rated Power Factor (PF) or reactive load (kVAR):

Attach documentation of the power curve for the generator(s).

EXHIBIT B

POINT OF DELIVERY / PARTIES' INTERCONNECTION FACILITIES

[Seller to provide its own diagram and description]

Instructions to Seller:

1. Include description of point of metering, and Point of Delivery
2. Provide interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Delivery.

**EXHIBIT C
REQUIRED FACILITY DOCUMENTS**

Qualifying Facility Number from FERC:

The following Documents are required to complete this project:

Easements:

Permits:

EXHIBIT D
ENERGY DELIVERY SCHEDULE

[Project Name]		
	Scheduled Monthly Energy Delivery	Ave kW/mo
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
TOTAL:		

Planned Outages. Seller will provide a Planned Outage schedule annually not to exceed ____ hours per ____ per year.

EXHIBIT E
START-UP TESTING

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to:

1. Test of mechanical and electrical equipment;
2. Calibration of all monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Point-to-point continuity tests;
6. Bench tests of protective devices; and
7. Tests required by manufacturer(s) and designer(s) of equipment.

Required start-up tests are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PacifiCorp's electrical system, which may include but are not limited to:

1. Turbine/generator mechanical runs and functionality;
2. System operation tests;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Excitation and voltage regulation operation tests;
7. Auto stop/start sequence;
8. Completion of any state and federal environmental testing requirements; and
9. Tests required by manufacturer(s) and designer(s) of equipment.

For wind projects only, the following Wind Turbine Generator Installation Checklists are required documents to be signed off by Manufacturer or Subcontract Category Commissioning Personnel as part of the Commissioning and startup testing:

Turbine Installation	
Foundation Inspection	
Controller Assembly	
Power Cables	
Cable Installation Checklists including:	Controller
	Top Deck / Yaw Deck
	Tower Top Section / Saddle
	Mid Section Cables or buss bars
	Base Section
Tower Base Section	
Tower Lights and Outlets	
Tower Mid Section	
Tower Top Section	
Nacelle	
Rotor	

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EXHIBIT F-1
MOTIVE FORCE PLAN
WIND SPEED DATA SUMMARIES & HOURLY WIND PROFILE

EXHIBIT F-2

ENGINEER'S CERTIFICATION

(1) THAT THE WIND DATA SUMMARIES IN EXHIBIT F-1 ARE ACCURATE;

_____ [Licensed Professional Engineer's certification]

(2) THAT THE AVERAGE ANNUAL NET OUTPUT ESTIMATE IS _____ KWH PER YEAR IN EACH FULL CALENDAR YEAR OF THIS AGREEMENT BASED ON THE MOTIVE FORCE PLAN IN EXHIBIT F-1;

_____ [Licensed Professional Engineer's certification]

(3) THAT THE FACILITY, UNDER AVERAGE DESIGN CONDITIONS, LIKELY WILL GENERATE NO MORE THAN 10 aMW IN ANY CALENDAR MONTH.

_____ [Licensed Professional Engineer's certification]

EXHIBIT G
SAMPLE ENERGY PURCHASE PRICE CALCULATIONS

The following are samples of calculations of energy purchase prices using the formula and tables in Section 5.1.

The calculation for the non-levelized purchase price during an On-Peak Hour in May of 2009 equals \$76.73/MWh (the 2009 annual rate for Conforming Energy) multiplied by 92% (0.92) (the May On-Peak Hour multiplier) minus \$5.10/MWh (the wind integration cost), which equals \$65.49/MWh.

Table 3: Sample calculations for non-levelized On-Peak Conforming Energy in 2009: Purchase Price = (annual rate * monthly On-Peak multiplier) – wind integration cost.

Month	Conforming Energy Annual Rate for 2009 (per MWh)	On-Peak Hour Multiplier	Wind Integration Cost	Calculated Purchase Price for 2009 On-Peak Conforming Energy (per MWh)
January	\$76.73	103%	\$5.10	\$73.93
February	\$76.73	105%	\$5.10	\$75.47
March	\$76.73	95%	\$5.10	\$67.79
April	\$76.73	95%	\$5.10	\$67.79
May	\$76.73	92%	\$5.10	\$65.49
June	\$76.73	94%	\$5.10	\$67.03
July	\$76.73	121%	\$5.10	\$87.74
August	\$76.73	121%	\$5.10	\$87.74
September	\$76.73	109%	\$5.10	\$78.54
October	\$76.73	115%	\$5.10	\$83.14
November	\$76.73	110%	\$5.10	\$79.30
December	\$76.73	129%	\$5.10	\$93.88

Table 4: Sample calculations for non-levelized Off-Peak Conforming Energy in 2009: Purchase Price = (annual rate * monthly Off-Peak multiplier) – wind integration cost.

Month	Conforming Energy Annual Rate for 2009 (per MWh)	Off-Peak Hour Multiplier	Wind Integration Cost	Calculated Purchase Price for 2009 Off-Peak Conforming Energy (per MWh)
January	\$76.73	94%	\$5.10	\$67.03
February	\$76.73	97%	\$5.10	\$69.33
March	\$76.73	80%	\$5.10	\$56.28
April	\$76.73	76%	\$5.10	\$53.21

Month	Conforming Energy Annual Rate for 2009 (per MWh)	Off-Peak Hour Multiplier	Wind Integration Cost	Calculated Purchase Price for 2009 Off-Peak Conforming Energy (per MWh)
May	\$76.73	63%	\$5.10	\$43.24
June	\$76.73	65%	\$5.10	\$44.77
July	\$76.73	92%	\$5.10	\$65.49
August	\$76.73	106%	\$5.10	\$76.23
September	\$76.73	99%	\$5.10	\$70.86
October	\$76.73	105%	\$5.10	\$75.47
November	\$76.73	96%	\$5.10	\$68.56
December	\$76.73	120%	\$5.10	\$86.98

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EXHIBIT H

Seller Authorization to Release Generation Data to PacifiCorp

[Interconnection Customer Letterhead]

Transmission Services

Attn: Director, Transmission Services

825 NE Multnomah, Suite 1600

Portland, OR 97232

RE: _____ Interconnection Request

Dear Sir:

_____ hereby voluntarily authorizes PacifiCorp's Transmission business unit to share _____'s generator interconnection information and generator meter data relating to _____'s _____ Qualifying Facility located in the town of _____, _____ County, _____ with Marketing Affiliate employees of PacifiCorp Energy, including, but not limited to those in the Commercial and Trading group. _____ acknowledges that PacifiCorp did not provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.

Name

Title

Date

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EXHIBIT I

Template Seller Certification of Conditions for Commercial Operation

[Seller Letterhead]

[Address to PacifiCorp]

RE: _____ Qualifying Facility

Dear Sir:

[Template for certification to be added.]

Name

Title

Date

Snow, Michael

From: Griswold, Bruce {Mkt Function}
Sent: Monday, March 23, 2009 11:34 AM
To: 'James T. Carkulis'
Cc: 'Collin Rudeen'; Younie, John
Subject: RE: PURPA contract requests

James,

As a follow-up to your QF requests, we have worked through transmission alternatives at Borah for your six proposed QF projects. Based on your proposed delivery point to the Borah substation, we only have import capabilities to our Utah system to serve load from Brady on a firm basis of 23 MW total. Based on your requests, we can accommodate a single 20MW project. For a transaction at Borah, Pac would do redirect of existing Borah reservation to Brady to facilitate a 23MW transaction.

From your project submittals, you have four standard QF projects. We will need to know which of the standard projects you would like to proceed with. We are currently preparing a draft intermittent resource PPA and can provide you the document the end of this week or first of next week. As you are aware, new avoided costs have been approved for the standard QF PPA and are published on the Idaho PUC website.

Let me know if you have questions. I will forward you the draft PPA as soon as we finish it up.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: James T. Carkulis [mailto:mtli@in-tch.com]
Sent: Tuesday, February 17, 2009 5:46 AM
To: Griswold, Bruce {Mkt Function}; Collin Rudeen; Lawrence R. Leib
Cc: Younie, John
Subject: Re: PURPA contract requests

Bruce:

I believe you have the motive force raw data and also compilations and analyses.

I would like to move both the 4 contract front and the 2 contract front forward as per your indication of getting these finished quickly.

We are conzigant of the filing by Rocky Mountain Power, but that should interfere with these negotiations.

We anticipate having online dates for these projects by 12-December-2010.

Regards,

James T. Carkulis
Confidential & Proprietary

Successfully Merging Free Market Principles with Societal Expectations

Exergy Development Group, LLC

[p] 208.336.9793

[f] 208.336.9431

[m] 406.459.3013

[e] mtli@in-tch.com

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----- Original Message -----

From: Griswold, Bruce {Mkt Function}

To: [Collin Rudeen](#) ; [James Carkulis](#) ; [Lawrence R. Leib](#)

Cc: [Younie, John](#)

Sent: Friday, January 23, 2009 3:04 PM

Subject: RE: PURPA contract requests

here is the call in information - the time is 9AM Mountain and 8AM Pacific.

Bruce Griswold from PacifiCorp has invited you to a Voice Conference (Mtg ID 121212) on **JAN, 28 2009 at 8:00 AM America/Los_Angeles**. If provided, use the following password: **121212**

To attend a Voice Conference: Call **503-813-5600** (toll free #800-503-3360), follow the instructions provided and enter Mtg ID **121212** when prompted.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen

Sent: Friday, January 23, 2009 12:39 PM

To: Griswold, Bruce {Mkt Function}

Cc: [Younie, John](#); [Peter Richardson](#); [James Carkulis](#); [Lawrence R. Leib](#)

Subject: Re: PURPA contract requests

Bruce,

Does 9:00, MST on Wednesday next week work for you guys? Pete will not be on the call. James and maybe Larry Leib will be on the call, in addition to myself.

Regards,
Collin

On Thu, Jan 22, 2009 at 10:18 AM, Griswold, Bruce {Mkt Function} <Bruce.Griswold@pacificorp.com> wrote:
Collin

Thanks for the documents. We will review and schedule a time to discuss all projects next week. Purpose of the call would be to clarify the submittals, schedules, and deliverables. Who should we schedule the call with? We would tentative look at Wednesday for a call.

If Pete will on the call, we will schedule to have our attorney also. Thanks.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen
Sent: Thursday, January 22, 2009 7:51 AM
To: Griswold, Bruce {Mkt Function}; Younie, John
Cc: Peter Richardson; James Carkulis
Subject: PURPA contract requests

John and Bruce,

Please see the three attached files, sent at Peter Richardson's request.

Regards,

--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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Snow, Michael

From: James T. Carkulis [mtli@in-tch.com]
Sent: Wednesday, April 01, 2009 4:39 PM
To: Griswold, Bruce {Mkt Function}
Cc: Collin Rudeen; Younie, John
Subject: Re: PURPA contract requests

Bruce:

Let's move forward on a 20 MW project until we figure out the rest. Let's use XRG-DP 10 for now as the project.

Thank you.

Regards,

James T. Carkulis
Confidential & Proprietary
Successfully Merging Free Market Principles with Societal Expectations
Exergy Development Group, LLC
[p] 208.336.9793
[f] 208.336.9431
[m] 406.459.3013
[e] mtli@in-tch.com

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----- Original Message -----

From: Griswold, Bruce {Mkt Function}
To: James T. Carkulis
Cc: Collin Rudeen ; Younie, John
Sent: Monday, March 23, 2009 11:34 AM
Subject: RE: PURPA contract requests

James,

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Let me know if you have questions. I will forward you the draft PPA as soon as we finish it up.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office

503-702-1445 Cell
503-813-6260 Fax

From: James T. Carkulis [mailto:mtli@in-tch.com]
Sent: Tuesday, February 17, 2009 5:46 AM
To: Griswold, Bruce {Mkt Function}; Collin Rudeen; Lawrence R. Leib
Cc: Younie, John
Subject: Re: PURPA contract requests

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We anticipate having online dates for these projects by 12-December-2010.

Regards,

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Successfully Merging Free Market Principles with Societal Expectations
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From: Griswold, Bruce {Mkt Function}
To: Collin Rudeen ; James Carkulis ; Lawrence R. Leib
Cc: Younie, John
Sent: Friday, January 23, 2009 3:04 PM
Subject: RE: PURPA contract requests

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Bruce Griswold from PacifiCorp has invited you to a Voice Conference (Mtg ID 121212) on **JAN, 28 2009 at 8:00 AM America/Los_Angeles**. If provided, use the following password: 121212

To attend a Voice Conference: Call **503-813-5600** (toll free #800-503-3360), follow the instructions provided and enter Mtg ID **121212** when prompted.

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From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen
Sent: Friday, January 23, 2009 12:39 PM
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Cc: Younie, John; Peter Richardson; James Carkulis; Lawrence R. Leib
Subject: Re: PURPA contract requests

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Regards,
Collin

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Sent: Thursday, January 22, 2009 7:51 AM
To: Griswold, Bruce {Mkt Function}; Younie, John
Cc: Peter Richardson; James Carkulis
Subject: PURPA contract requests

John and Bruce,

Please see the three attached files, sent at Peter Richardson's request.

Regards,

--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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Snow, Michael

From: James T. Carkulis [mtli@in-tch.com]
Sent: Wednesday, February 25, 2009 1:51 PM
To: Griswold, Bruce {Mkt Function}; Collin Rudeen; Lawrence R. Leib
Cc: Younie, John
Subject: Re: PURPA contract requests

Bruce:

Sorry to hear about the flu.

You may wish to think about considering the dual 345kV PacifiCorp line from Bridger also to move Jack Ranch and JR 1 at Midpoint east and west.

At Malta, swaps could occur with BPA since PacifiCorp furnishes the energy for some of the BPA syndication in the region.

I have all the faith PacifiCorp's expert transmission team will figure this out.

Regards,

James T. Carkulis
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To: James T. Carkulis ; Collin Rudeen ; Lawrence R. Leib
Cc: Younie, John
Sent: Wednesday, February 25, 2009 1:39 PM
Subject: RE: PURPA contract requests

James,

I have been out with the flu so I need to get back on this. We are looking at significant transmission constraints at Brady and Borah so I am waiting on a final response back from our transmission trader on our ability to accept and integrate the full amount of your requests at those points. I will have a response back to you end of this week.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office

503-702-1445 Cell
503-813-6260 Fax

From: James T. Carkulis [mailto:mtli@in-tch.com]
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To: Griswold, Bruce {Mkt Function}; Collin Rudeen; Lawrence R. Leib
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PAC-E-10-08/Rocky Mountain Power
August 16, 2012
XRG Data Request 25

XRG Data Request 25

Please admit or deny that XRG consistently maintained its belief that transmission would be available at its proposed points of delivery, and consistently requested PPAs for all 4 projects despite Rocky Mountain Power's perception of a transmission problem. If denied, please provide supporting evidence that XRG agreed with Rocky Mountain Power that transmission was a fatal flaw.

Response to XRG Data Request 25

PacifiCorp objects to this request on the basis that PacifiCorp does not possess the requested information. In this data request PacifiCorp is asked to admit or deny XRG's "belief" relative to the availability of transmission. PacifiCorp does not know what "belief" XRG held and does not have information to ascertain XRG's "belief." Without waiving its objection and reserving its right to renew this objection at hearing, PacifiCorp provides the following response.

Deny. PacifiCorp does not have sufficient information to ascertain XRG's "belief" relative to transmission availability. XRG did not consistently request PPAs for all four projects. In an e-mail communication dated April 1, 2009 from James Carkulis to Bruce Griswold, XRG instructed PacifiCorp to move forward with only XRG-DP10 "until we figure out the rest."

Recordholder: Bruce Griswold
Sponsor: To Be Determined

PAC-E-10-08/Rocky Mountain Power
August 16, 2012
XRG Data Request 26

XRG Data Request 26

Reference Rocky Mountain Power's Response to XRG Request No. 16 and *Answer ¶ 8*. Please explain how Bruce Griswold (or anyone else at PacifiCorp C&T) requested information regarding transmission availability for network resource designation of the XRG projects. Provide all supporting evidence of PacifiCorp C&T's request and PacifiCorp Transmission's response, and please explain how the evidence provided supports Rocky Mountain Power's position stated to XRG from on or about March 23, 2009 to September 21, 2010, that transmission access would only be available for 23 MW and thus only one of the XRG QFs. If PacifiCorp C&T did not contact PacifiCorp Transmission regarding the Company's ability to designate the XRG projects as network resources, please state so.

Response to XRG Data Request 26

PacifiCorp Merchant (Commercial and Trading/C&T) used publicly available information from OASIS to determine available transmission capacity for XRG QF requests at the proposed point of delivery. PacifiCorp Merchant does not request specific Network Resource designation until a power purchase agreement (PPA) with the resource is executed. PacifiCorp Transmission OATT Section 29.2 (viii) requires an executed PPA with the resource for Network Resource designation application or an attestation that execution of a PPA is eminent which then must be provided within two weeks by PacifiCorp Merchant.

PacifiCorp did not contact or apply to PacifiCorp Transmission for Network Resource designation because it did not have an executed PPA with XRG during the referenced time period.

Recordholder: Bruce Griswold
Sponsor: To Be Determined

XRG Data Request 27

Reference Rocky Mountain Power's Response to XRG's First Production Request, Attachment XRG 5 (Rocky Mountain Power's September 21, 2010 Letter).

- (a) Please admit or deny that Rocky Mountain Power's revised determination that transmission capacity was available for all 4 XRG projects did not result from physical upgrades or changes to the transmission system.
- (b) Please describe the changed circumstances that resulted in Rocky Mountain Power's determination regarding additional transmission availability. Please provide all supporting evidence of the changed circumstances cited, and please define "Point of Service" as used in the letter and response, including a reference to where that term is defined in PacifiCorp's OATT or publicly available Business Practices.
- (c) Please identify the dates on which transmission was in fact physically available for delivery of over 23 MW from the XRG projects at Brady after January 21, 2009.
- (d) Admit or deny that a posting on an OASIS website regarding transmission availability can be an incorrect approximation of actual transmission availability.
- (e) Did PacifiCorp's OASIS website inaccurately post available transmission capacity on the paths necessary for integration of energy delivered to Brady or Borah at any time after January 21, 2009? If no physical upgrades were completed, please explain how the available capacity postings were correct prior to the times listed in the September 21, 2010 letter.

Response to XRG Data Request 27

- (a) PacifiCorp admits the revised determination did not result from physical upgrades or physical changes to the transmission system. The revised determination resulted from a modification to include Path C as a Point of Service (for network reservations) on OASIS July 15, 2010 which did not result from physical upgrades or physical changes to the transmission system.
- (b) The circumstance that changed was a modification made to include Path C as a Point of Service (for Network reservations) on OASIS. The definition for "point of service" is a point in a path for scheduling purposes only. Unlike a point of receipt or a point of delivery, a transmission request cannot originate or end at a point of service.
- (c) No determination was done, and therefore no identifiable dates were established, for physical transmission availability for the delivery of over 23 MW from the XRG projects at Brady. PacifiCorp Energy letter of

September 21, 2010 (the referenced Attachment XRG 5) refers to availability of firm scheduling service for the XRG projects.

- (d) Without additional context from the complainant, PacifiCorp cannot provide a meaningful response. It appears complainant is associating available OASIS path scheduling transfer capability with available physical transmission facility capability which would be out of context for PacifiCorp Energy letter of September 21, 2010 (the referenced Attachment XRG 5). OASIS is the most accurate and current information available regarding system capabilities. It can and does change over time as information and use of the system changes.
- (e) No, PacifiCorp's OASIS website did not inaccurately post available transmission capacity on the paths necessary for integration of energy delivered to Brady or Borah at any time after January 21, 2009.

The postings were correct. As was explained in PacifiCorp's response to data request 21 (b), Idaho Power's decision to split the postings for Borah and Brady resulted in the need to also separate the two physical points on PacifiCorp's OASIS. Splitting the points, allowed PacifiCorp to identify and post some additional firm scheduling flexibility for both paths independently.

Recordholder: Kenneth Houston / Jim Portouw
Sponsor: To Be Determined

PAC-E-10-08/Rocky Mountain Power
August 16, 2012
XRG Data Request 31

XRG Data Request 31

Reference Rocky Mountain Power's Response to XRG's First Production Request, Attachment XRG 1, Part 2 (containing emails from Jim Partouw, a Trader for PacifiCorp C&T, to John Younie, PacifiCorp C&T, on January 29, 2009, stating in response to Mr. Younie's inquiry into transmission capacity: "Suggest PPA be contingent upon receiving Network Resource status").

- (a) Please admit or deny that Rocky Mountain Power did not offer the option to XRG to make the requested PPAs "contingent upon receiving Network Resource status."
- (b) If admit, please explain why Rocky Mountain Power did not offer the option to XRG to make the requested PPAs "contingent upon receiving Network Resource status."
- (c) If deny, please provide supporting evidence.

Response to XRG Data Request 31

Please note the correct spelling for "Jim Partouw" is Jim Portouw.

- (a) Deny. All of PacifiCorp's QF purchases are Network Resources.
- (b) Please refer to the Company's response to subpart (a) above.
- (c) Please refer to Attachment XRG 31, an email delivered to Mr. Carkulis on May 11, 2009.

Recordholder: Bruce Griswold
Sponsor: To Be Determined

Attachment XRG 31

Snow, Michael

From: Griswold, Bruce {Mkt Function}
Sent: Monday, May 11, 2009 5:26 PM
To: James T. Carkulis
Cc: Younie, John; Ken Kaufmann
Subject: RE: contracts
Attachments: 11May09 draft Idaho MAG PPA.doc; Re: PURPA contract requests

James

Please find the attached draft Idaho standard QF PPA to be used for a wind project. It should include all the recent Idaho commission orders. It does not include Addendum W which is the bolt-on addendum for an off-system project delivering to PacifiCorp. I will send that separately. Per our last communication (attached), we indicated PacifiCorp does not have sufficient transmission at Borah or Brady to accept any project greater than 23MW and you selected one project, XRG-DP 10, that would be developed into a PPA. Please provide a redline to this document with your proposed changes for discussion. If you or your team, have questions on the PPA, please call.

Bruce Griswold
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From: James T. Carkulis [<mailto:mtli@in-tch.com>]
Sent: Monday, May 11, 2009 5:35 AM
To: Griswold, Bruce {Mkt Function}
Subject: contracts

Bruce:

In January, PacifiCorp agreed the strategy with XRG was to have all 6 contract requests before the IPUC by the end of April. To date, not one draft has been tendered by PacifiCorp. We realize these are exciting times and all are very busy, but all the Aurora work should have been accomplished on JR1 and Jack Ranch by now, the 4 drafts on XRG-DP 7 thru 10 should be in our hands for review.

We would appreciate if we could receive these contracts for review and comment to move to execution.

Thank you.

Regards,

James T. Carkulis
Confidential & Proprietary
Successfully Merging Free Market Principles with Societal Expectations
Exergy Development Group, LLC
[p] 208.336.9793
[f] 208.336.9431
[m] 406.459.3013
[e] mtli@in-tch.com

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Snow, Michael

From: James T. Carkulis [mtli@in-tch.com]
Sent: Wednesday, April 01, 2009 4:39 PM
To: Griswold, Bruce {Mkt Function}
Cc: Collin Rudeen; Younie, John
Subject: Re: PURPA contract requests

Bruce:

Let's move forward on a 20 MW project until we figure out the rest. Let's use XRG-DP 10 for now as the project.

Thank you.

Regards,

James T. Carkulis

Confidential & Proprietary
Successfully Merging Free Market Principles with Societal Expectations
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----- Original Message -----

From: Griswold, Bruce {Mkt Function}

To: James T. Carkulis

Cc: Collin Rudeen ; Younie, John

Sent: Monday, March 23, 2009 11:34 AM

Subject: RE: PURPA contract requests

James,

As a follow-up to your QF requests, we have worked through transmission alternatives at Borah for your six proposed QF projects. Based on your proposed delivery point to the Borah substation, we only have import capabilities to our Utah system to serve load from Brady on a firm basis of 23 MW total. Based on your requests, we can accommodate a single 20MW project. For a transaction at Borah, Pac would do redirect of existing Borah reservation to Brady to facilitate a 23MW transaction.

From your project submittals, you have four standard QF projects. We will need to know which of the standard projects you would like to proceed with. We are currently preparing a draft intermittent resource PPA and can provide you the document the end of this week or first of next week. As you are aware, new avoided costs have been approved for the standard QF PPA and are published on the Idaho PUC website.

Let me know if you have questions. I will forward you the draft PPA as soon as we finish it up.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office

503-702-1445 Cell
503-813-6260 Fax

From: James T. Carkulis [mailto:mtli@in-tch.com]
Sent: Tuesday, February 17, 2009 5:46 AM
To: Griswold, Bruce {Mkt Function}; Collin Rudeen; Lawrence R. Leib
Cc: Younie, John
Subject: Re: PURPA contract requests

Bruce:

I believe you have the motive force raw data and also compilations and analyses.

I would like to move both the 4 contract front and the 2 contract front forward as per your indication of getting these finished quickly.

We are conzigant of the filing by Rocky Mountain Power, but that should interfere with these negotiations.

We anticipate having online dates for these projects by 12-December-2010.

Regards,

James T. Carkulis
Confidential & Proprietary
Successfully Merging Free Market Principles with Societal Expectations
Exergy Development Group, LLC
[p] 208.336.9793
[f] 208.336.9431
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----- Original Message -----

From: Griswold, Bruce {Mkt Function}
To: Collin Rudeen ; James Carkulis ; Lawrence R. Leib
Cc: Younie, John
Sent: Friday, January 23, 2009 3:04 PM
Subject: RE: PURPA contract requests

here is the call in information - the time is 9AM Mountain and 8AM Pacific.

Bruce Griswold from PacifiCorp has invited you to a Voice Conference (Mtg ID 121212) on JAN, 28 2009 at 8:00 AM America/Los_Angeles. If provided, use the following password: 121212

To attend a Voice Conference: Call **503-813-5600** (toll free #800-503-3360), follow the instructions provided and enter Mtg ID **121212** when prompted.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen
Sent: Friday, January 23, 2009 12:39 PM
To: Griswold, Bruce {Mkt Function}
Cc: Younie, John; Peter Richardson; James Carkulis; Lawrence R. Leib
Subject: Re: PURPA contract requests

Bruce,

Does 9:00, MST on Wednesday next week work for you guys? Pete will not be on the call. James and maybe Larry Leib will be on the call, in addition to myself.

Regards,
Collin

On Thu, Jan 22, 2009 at 10:18 AM, Griswold, Bruce {Mkt Function} <Bruce.Griswold@pacificorp.com> wrote:
Collin

Thanks for the documents. We will review and schedule a time to discuss all projects next week. Purpose of the call would be to clarify the submittals, schedules, and deliverables. Who should we schedule the call with? We would tentative look at Wednesday for a call.

If Pete will on the call, we will schedule to have our attorney also. Thanks.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen
Sent: Thursday, January 22, 2009 7:51 AM
To: Griswold, Bruce {Mkt Function}; Younie, John
Cc: Peter Richardson; James Carkulis
Subject: PURPA contract requests

John and Bruce,

Please see the three attached files, sent at Peter Richardson's request.

Regards,

--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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THIS WORKING DRAFT DOES NOT CONSTITUTE A BINDING OFFER, SHALL NOT FORM THE BASIS FOR AN AGREEMENT BY ESTOPPEL OR OTHERWISE, AND IS CONDITIONED UPON EACH PARTY'S RECEIPT OF ALL REQUIRED MANAGEMENT APPROVALS (INCLUDING FINAL CREDIT AND LEGAL APPROVAL) AND ALL REGULATORY APPROVALS. ANY ACTIONS TAKEN BY A PARTY IN RELIANCE ON THE TERMS SET FORTH IN THIS WORKING DRAFT OR ON STATEMENTS MADE DURING NEGOTIATIONS PURSUANT TO THIS WORKING DRAFT SHALL BE AT THAT PARTY'S OWN RISK. UNTIL THIS AGREEMENT IS NEGOTIATED, APPROVED BY MANAGEMENT, SIGNED, DELIVERED AND APPROVED BY ALL REQUIRED REGULATORY BODIES, NO PARTY SHALL HAVE ANY OTHER LEGAL OBLIGATIONS, EXPRESSED OR IMPLIED, OR ARISING IN ANY OTHER MANNER UNDER THIS WORKING DRAFT OR IN THE COURSE OF NEGOTIATIONS.

POWER PURCHASE AGREEMENT

BETWEEN

[a non-fueled, Intermittent Resource with Mechanical Availability Guarantee, Idaho Qualifying Facility—10aMW/Month or less]

AND

PACIFICORP

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT, entered into this _____ day of _____, 20____, is between _____ [Seller's name], an _____ [Seller's state of incorporation] _____ [corporation, partnership, or limited liability company] (the "Seller") and PacifiCorp, an Oregon corporation acting in its merchant function capacity ("PacifiCorp"). Seller and PacifiCorp are referred to collectively as the "Parties" and individually as a "Party".

RECITALS

A. Seller intends to construct, own, operate and maintain a _____ [state type of facility] facility for the generation of electric power located in _____ [City, County] with an expected Facility Capacity Rating of _____-kilowatts (kW) ("Facility").

B. Seller intends to operate the Facility as a Qualifying Facility; as such term is defined in Section 1.50 below.

C. Seller estimates that the average annual Net Output to be delivered by the Facility to PacifiCorp is _____ kilowatt-hours (kWh) ("Average Annual Net Output") pursuant to the monthly Energy Delivery Schedule in **Exhibit D** hereto, which amount of energy PacifiCorp will include in its resource planning.

D. PacifiCorp intends to designate Seller's Facility as a Network Resource for the purposes of serving Network Load.

E. This Agreement is a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol and, as such, the costs of QF energy under this Agreement shall be allocated as a system resource unless any portion of those costs exceeds the cost PacifiCorp would have otherwise incurred acquiring comparable resources. In that event, the Revised Protocol assigns those excess costs on a situs basis to the state in which the Facility is located. In addition, for the purposes of inter-jurisdictional cost allocation, PacifiCorp represents that the costs of this Agreement do not exceed the costs PacifiCorp would have otherwise incurred acquiring resources in the market that are defined as "Comparable Resources" in Appendix A to the Inter-Jurisdictional Cost Allocation Revised Protocol. For the purposes of inter-jurisdictional cost allocation, PacifiCorp represents that the costs and revenues from the energy and capacity sold to Seller by PacifiCorp will be assigned on a situs basis to the state to which Net Output from the Facility is delivered.

F. Seller has has not authorized Transmission Provider to release generation data to PacifiCorp. If yes, the authorization is attached as **Exhibit H**.

NOW, THEREFORE, the Parties mutually agree as follows:

SECTION 1: DEFINITIONS

When used in this Agreement, the following terms shall have the following meanings:

1.1 “**As-built Supplement**” shall be a supplement to **Exhibit A**, provided by Seller following completion of construction of the Facility, accurately describing the completed Facility.

1.2 “**Availability**” means, for any Billing Period, the ratio, expressed as a percentage, of (x) the aggregate sum of the turbine-minutes in which each of the Wind Turbines at the Facility was available to generate at the Maximum Facility Delivery Rate during the Billing Period over (y) the product of the number of Wind Turbines that comprise the Facility Capacity Rating as of Commercial Operation multiplied by the number of minutes in such Contract Year. A Wind Turbine shall be deemed not available to operate during minutes in which it is (a) in an emergency, stop, service mode or pause state; (b) in “run” status and faulted; or (c) otherwise not operational or capable of delivering at the Maximum Facility Delivery Rate to the Point of Delivery; unless if unavailable due solely to (i) a default by PacifiCorp; (ii) a curtailment in accordance with Section 6.2.1 or Section 6.2.2(b) or (d); or (iii) insufficient wind (including the normal amount of time required by the generating equipment to resume operations following a period when wind speed is below the Cut-In Wind Speed).

1.3 “**Billing Period**” means the time period between PacifiCorp's reading of its power purchase meter at the Facility and for this Agreement shall coincide with calendar months.

1.4 “**Commercial Operation**” means that not less than the 90% of the expected Facility Capacity Rating is fully operational and reliable and the Facility is fully interconnected, fully integrated, and synchronized with the System, all of which shall be Seller's responsibility to receive or obtain, and which occurs when all of the following events (i) have occurred, and (ii) remain simultaneously true and accurate as of the date and moment on which Seller gives PacifiCorp notice that Commercial Operation has occurred:

1.4.1 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer (a) stating the Facility Capacity Rating of the Facility at the anticipated time of Commercial Operation and (b) stating that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement.

1.4.2 Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**.

1.4.3 PacifiCorp has received a certificate (attached hereto as **Exhibit I**) addressed to PacifiCorp from a Licensed Professional Engineer, an attorney in good standing in Idaho, or a letter from Transmission Provider, stating that, in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with the System in conformance with the Generation Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement, and the Facility is fully integrated and synchronized with the System.

1.4.4 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer, or an attorney in good standing in Idaho, stating that

Seller has obtained all Required Facility Documents and, if requested by PacifiCorp in writing, Seller shall have provided copies of any or all such requested Required Facility Documents.

1.4.5 Seller has complied with the security requirements of Section 11.

Seller shall provide written notice to PacifiCorp stating when Seller believes that the Facility has achieved Commercial Operation and its Facility Capacity Rating accompanied by the certificates described above. PacifiCorp shall have ten days after receipt either to confirm to Seller that all of the conditions to Commercial Operation have been satisfied or have occurred, or to state with specificity what PacifiCorp reasonably believes has not been satisfied. If, within such ten day period, PacifiCorp does not respond or notifies Seller confirming that the Facility has achieved Commercial Operation, the original date of receipt of Seller's notice shall be the Commercial Operation Date. If PacifiCorp notifies Seller within such ten day period that PacifiCorp believes the Facility has not achieved Commercial Operation, Seller must address the concerns stated in PacifiCorp's notice to the mutual satisfaction of both Parties, and Commercial Operation shall occur on the date of such satisfaction, as specified in a notice from PacifiCorp to Seller. If Commercial Operation is achieved at less than one hundred percent (100%) of the expected Facility Capacity Rating, Seller shall provide PacifiCorp an expected date for achieving the expected Facility Capacity Rating, and the Facility Capacity Rating on that date shall be the final Facility Capacity Rating under this Agreement. In no event will delay in achieving the expected Facility Capacity Rating beyond the Commercial Operation Date postpone the Expiration Date specified in Section 2.1.

1.5 "**Commercial Operation Date**" means the date the Facility first achieves Commercial Operation.

1.6 "**Commission**" means the Idaho Public Utilities Commission.

1.7 "**Conforming Energy**" means all Net Energy except Non-Conforming Energy and Inadvertent Energy.

1.8 "**Conforming Energy Purchase Price**" means the applicable price for Conforming Energy and capacity, specified in Section 5.1.

1.9 "**Contract Year**" means a twelve (12) month period commencing at 00:00 hours Mountain Prevailing Time ("MPT") on January 1 and ending on 24:00 hours MPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on the next succeeding December 31, and the last Contract Year shall end on the Expiration Date, unless earlier terminated as provided herein.

1.10 "**Curtailed Energy**" shall have the meaning set forth in Section 6.2.1 of this Agreement.

1.11 "**Cut-in Wind Speed**" means the wind speed at which a stationary wind turbine begins producing Net Energy, as specified by the turbine manufacturer and set forth in **Exhibit A**.

1.12 “**Delay Liquidated Damages**”, “**Delay Period**”, “**Delay Price**” and “**Delay Volume**” shall have the meanings set forth in Section 2.3 of this Agreement. “**Delay Security**” shall have the meaning set forth in Section 11.1.1 of this Agreement.

1.13 “**Default Security**” shall have the meaning set forth in Section 11.2 of this Agreement.

1.14 “**Effective Date**” shall have the meaning set forth in Section 2.1 of this Agreement.

1.15 “**Energy Delivery Schedule**” shall have the meaning set forth in Section 4.3 of this Agreement.

1.16 “**Environmental Attributes**” means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by PacifiCorp. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) Production Tax Credits or certain other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility, (ii) matters designated by PacifiCorp as sources of liability, or (iii) adverse wildlife or environmental impacts.

1.17 “**Expiration Date**” shall have the meaning set forth in Section 2.1 of this Agreement.

1.18 “**Facility**” means Seller’s project, including the Seller’s Interconnection Facilities, as described in the **Recitals, Exhibit A, and Exhibit B**.

1.19 “**Facility Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all generators comprising the Facility.

1.20 “**Force Majeure**” has the meaning set forth in Section 15.1.

1.21 “**Forced Outage**” means an outage that requires removal of one or more Wind Turbines from service, another outage state or a reserve shutdown state before the end of the next weekend. Maintenance Outages and Planned Outages are not Forced Outages.

1.22 “**Generation Interconnection Agreement**” means the generation interconnection agreement to be entered into separately between Seller and Transmission Provider, as applicable, specifying the Point of Delivery and providing for the construction and operation of the Interconnection Facilities.

1.23 **"Inadvertent Energy"** means: (1) energy delivered to the Point of Delivery in excess of the Maximum Monthly Purchase Obligation; and (2) energy delivered to the Point of Delivery at a rate exceeding the Maximum Facility Delivery Rate on an hour-averaged basis.

1.24 **"Index Price"** shall mean the average of: (1) the weighted average of the daily On-Peak and Off-Peak Dow Jones Mid-Columbia index prices for firm energy; and (2) the weighted average of the daily On-Peak and Off-Peak Dow Jones Palo Verde index (Dow Jones Palo Verde Index) prices for firm energy. For Sunday and NERC holidays, the 24-Hour Index Price shall be used, unless Dow Jones shall publish a Firm On-Peak and Firm Off-Peak Price for such days for Mid-C and Palo Verde, in which event such indices shall be utilized for such days. If the Dow Jones index or any replacement of that index ceases to be published during the term of this Agreement, PacifiCorp shall select as a replacement a substantially equivalent index that, after any appropriate or necessary adjustments, provides the most reasonable substitute for the index in question. PacifiCorp's selection shall be subject to Seller's consent, which Seller shall not unreasonably withhold, condition or delay.

1.25 **"Initial Year Energy Delivery Schedule"** shall have the meaning set forth in Section 4.3.1.

1.26 **"Interconnection Facilities"** means all the facilities and ancillary equipment used to interconnect the Facility to the System, as defined in the Generation Interconnection Agreement.

1.27 **"Licensed Professional Engineer"** means a person acceptable to PacifiCorp in its reasonable judgment who is licensed to practice engineering in the state of Idaho, who has training and experience in the engineering discipline(s) relevant to the matters with respect to which such person is called to provide a certification, evaluation and/or opinion, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made. The engagement and payment of a Licensed Professional Engineer solely to provide the certifications, evaluations and opinions required by this Agreement shall not constitute a prohibited economic relationship, association or nexus with the Seller, so long as such engineer has no other economic relationship, association or nexus with the Seller.

1.28 **"Maintenance Outage"** means any outage of one or more Wind Turbines that is not a Forced Outage or a Planned Outage. A Maintenance Outage is an outage that can be deferred until after the end of the next weekend, but that requires that the Wind Turbine(s) be removed from service before the next Planned Outage. A Maintenance Outage may occur any time during the year and must have a flexible start date.

1.29 **"Material Adverse Change"** shall mean, with respect to the Seller, if the Seller, in the reasonable opinion of PacifiCorp, has experienced a material adverse change in ability to fulfill its obligations under this Agreement.

1.30 **“Maximum Facility Delivery Rate”** means the maximum instantaneous rate (kW) at which the Facility is capable of delivering Net Output at the Point of Delivery, as specified in **Exhibit A**, and in compliance with the Generation Interconnection Agreement.

1.31 **“Maximum Monthly Purchase Obligation”** means the maximum amount of energy PacifiCorp is obligated to purchase under this Agreement in a calendar month. In accordance with Commission Order No. 29632, the Maximum Monthly Purchase Obligation for a given month, in kWh, shall equal 10,000 kW multiplied by the total number of hours in that month and prorated for any partial month.

1.32 **“Nameplate Capacity Rating”** means the maximum instantaneous generating capacity of any qualifying small power or cogeneration generating unit supplying all or part of the energy sold by the Facility, expressed in MW or kW, when operated consistent with the manufacturer’s recommended power factor and operating parameters, as set forth in a notice from Seller to PacifiCorp delivered before the Commercial Operation Date and, if applicable, updated in the As-built Supplement.

1.33 **“NERC”** means the North American Electric Reliability Corporation.

1.34 **“Net Energy”** means the energy component, in kWh, of Net Output.

1.35 **“Net Output”** means all energy and capacity produced by the Facility, less station use and less transformation and transmission losses and other adjustments, if any. For purposes of calculating payment under this Agreement, Net Output of energy shall be the amount of energy flowing through the Point of Delivery, less any station use not provided by the Facility. Net Output does not include Inadvertent Energy.

1.36 **“Network Resource”** shall have the meaning set forth in the Tariff.

1.37 **“Network Service Provider”** means PacifiCorp Transmission, as a provider of network service to PacifiCorp under the Tariff.

1.38 **“Non-Conforming Energy”** means Net Output produced by the Facility prior to the Commercial Operation Date.

1.39 **“Non-Conforming Energy Purchase Price”** means the applicable price for Non-Conforming Energy and capacity, specified in Section 5.1.

1.40 **“Off-Peak Hours”** means all hours of the week that are not On-Peak Hours.

1.41 **“On-Peak Hours”** means hours from 7:00 a.m. to 11:00 p.m. Mountain Prevailing Time, Monday through Saturday, excluding Western Electricity Coordinating Council (WECC) and North American Electric Reliability Corporation (NERC) holidays.

1.42 **“Output Shortfall”** and **“Output Shortfall Damages”** shall have the meanings set forth in Section 4.5 of this Agreement.

1.43 “**PacifiCorp**” is defined in the first paragraph of this Agreement, and excludes PacifiCorp Transmission.

1.44 “**PacifiCorp Transmission**” means PacifiCorp, an Oregon corporation, acting in its interconnection and transmission function capacity.

1.45 “**Planned Outage**” means an outage of predetermined duration that is scheduled in Seller’s Energy Delivery Schedule. Boiler overhauls, turbine overhauls or inspections are typical planned outages. Maintenance Outages and Forced Outages are not Planned Outages.

1.46 “**Point of Delivery**” means the high side of the generation step-up transformer(s) located at the point of interconnection between the Facility and the System, as specified in the Generation Interconnection Agreement and in **Exhibit B**.

1.47 “**Prime Rate**” means the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by JPMorgan Chase & Co. If a JPMorgan Chase & Co. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

1.48 “**Production Tax Credits**” means production tax credits under Section 45 of the Internal Revenue Code as in effect from time to time during the term hereof or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources and any correlative state tax credit determined by reference to renewable electric energy produced from wind resources for which the Facility is eligible.

1.49 “**Prudent Electrical Practices**” means any of the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Electrical Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

1.50 “**QF**” means “**Qualifying Facility**”, as that term is defined in the version of FERC Regulations (codified at 18 CFR Part 292) in effect on the date of this Agreement.

1.51 “**Required Facility Documents**” means all deeds, titles, leases, licenses, permits, authorizations, and agreements demonstrating that seller controls the necessary property rights and government authorizations to construct, operate, and maintain the Facility, including without limitation those set forth in **Exhibit C**.

1.52 “**Scheduled Commercial Operation Date**” means the date by which Seller promises to achieve Commercial Operation, as specified in Section 2.2.6.

1.53 “**Scheduled Monthly Energy Delivery**” means the Net Energy scheduled to be delivered during a given calendar month, as specified by Seller in the Energy Delivery Schedule.

1.54 “**Seller’s Forecast-Cost Share**” and “**Seller’s Capped Forecast-Cost Share**” shall have the meanings set forth in Sections 8.2 and 8.3 respectively.

1.55 “**Subsequent Energy Delivery Schedule**” shall have the meaning set forth in Section 4.3.3.

1.56 “**System**” means the electric transmission substation and transmission or distribution facilities owned, operated or maintained by Transmission Provider, which shall include, after construction and installation of the Facility, the circuit reinforcements, extensions, and associated terminal facility reinforcements or additions required to interconnect the Facility, all as set forth in the Generation Interconnection Agreement.

1.57 “**Tariff**” means the PacifiCorp Transmission FERC Electric Tariff Seventh Revised Volume No.11 Pro Forma Open Access Transmission Tariff or the Transmission Provider’s corresponding FERC tariff or both, as revised from time to time.

1.58 “**Transmission Provider**” means PacifiCorp Transmission or a successor, including any regional transmission organization (“**RTO**”).

1.59 “**Wind Turbine**” means a [description of intended wind turbine model]. At its full Facility Capacity Rating, the Facility will consist of ___ Wind Turbines.

SECTION 2: TERM, COMMERCIAL OPERATION DATE

2.1 This Agreement shall become effective after execution by both Parties and after approval by the Commission (“**Effective Date**”); *provided*, however, this Agreement shall not become effective until the Commission has determined that the prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by PacifiCorp for purchases of capacity and energy from Seller are legitimate expenses, all of which the Commission will allow PacifiCorp to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.

Unless earlier terminated as provided herein, the Agreement shall remain in effect until _____ [enter date that is no later than 20 years after the Scheduled Commercial Operation Date] (“**Expiration Date**”).

2.2 Time is of the essence of this Agreement, and Seller's ability to meet certain requirements prior to the Commercial Operation Date and to achieve Commercial Operation by the Scheduled Commercial Operation Date is critically important. Therefore,

2.2.1 By _____, Seller shall obtain and provide to PacifiCorp copies of all governmental permits and authorizations necessary for construction of the Facility.

2.2.2 By _____, Seller shall provide to PacifiCorp a copy of an executed Generation Interconnection Agreement, whose terms shall be consistent with the terms of this Agreement.

2.2.3 By the date 5 business days after the Effective Date, Seller shall provide Delay Security required under Section 11.1.1, as applicable.

2.2.4 By the date 30 calendar days after the Effective Date, Seller shall provide Default Security required under Section 11.2, as applicable.

2.2.5 Prior to Commercial Operation Date, Seller shall provide PacifiCorp with an As-built Supplement acceptable to PacifiCorp.

2.2.6 By _____, Seller shall have achieved Commercial Operation ("**Scheduled Commercial Operation Date**").

2.2.7 Beginning _____, Seller shall provide PacifiCorp a one-page monthly update by e-mail on the progress of the milestones in this Section 2.2.

2.3 Seller shall cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date. If Commercial Operation occurs after the Scheduled Commercial Operation Date, Seller shall be liable to pay PacifiCorp delay damages for the number of days ("**Delay Period**") the Commercial Operation Date occurs after the Scheduled Commercial Operation Date, up to a total of 120 days ("**Delay Liquidated Damages**").

Delay Liquidated Damages equals the sum of: the Delay Price times the Delay Volume, for each day of the Delay Period

Where:

"**Delay Price**" equals the positive difference, if any, of the Index Price minus the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices; and

"**Delay Volume**" equals the applicable Scheduled Monthly Energy Delivery divided by the number of days in that month.

The Parties agree that the damages PacifiCorp would incur due to delay in the Facility achieving Commercial Operation on or before the Scheduled Commercial Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1 PacifiCorp represents, covenants, and warrants to Seller that:

3.1.1 PacifiCorp is duly organized and validly existing under the laws of the State of Oregon.

3.1.2 PacifiCorp has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms of this Agreement.

3.1.3 PacifiCorp has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

3.1.4 Subject to Commission approval, the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on PacifiCorp or any valid order of any court, or any regulatory agency or other body having authority to which PacifiCorp is subject.

3.1.5 Subject to Commission approval, this Agreement is a valid and legally binding obligation of PacifiCorp, enforceable against PacifiCorp in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2 Seller represents, covenants, and warrants to PacifiCorp that:

3.2.1 Seller is a _____[corporation, partnership, or limited liability company] duly organized and validly existing under the laws of _____[state of Seller's incorporation].

3.2.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof, including all required regulatory authority to make wholesale sales from the Facility.

3.2.3 Seller's shareholders, directors, and officers have taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

3.2.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.

3.2.5 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general

principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2.6 The Facility is and shall for the term of this Agreement continue to be a QF. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission self-certification to PacifiCorp prior to PacifiCorp's execution of this Agreement. At any time PacifiCorp has reason to believe during the term of this Agreement that Seller's status as a QF is in question, PacifiCorp may require Seller to provide PacifiCorp with a written legal opinion from an attorney in good standing in the state of Idaho and who has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and providing sufficient proof (including copies of all documents and data as PacifiCorp may request) demonstrating that Seller has maintained and will continue to maintain the Facility as a QF.

3.2.7 Neither the Seller nor any of its principal equity owners is or has within the past two (2) years been the debtor in any bankruptcy proceeding, is unable to pay its bills in the ordinary course of its business, or is the subject of any legal or regulatory action, the result of which could reasonably be expected to impair Seller's ability to own and operate the Facility in accordance with the terms of this Agreement.

3.2.8 Seller has not at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.

3.2.9 Seller is not in default under any of its other agreements and is current on all of its financial obligations.

3.2.10 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility.

3.3 Notice. If at any time during this Agreement, any Party obtains actual knowledge of any event or information which would have caused any of the representations and warranties in this Section 3 to have been materially untrue or misleading when made, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

SECTION 4: DELIVERY OF POWER; AVAILABILITY GUARANTY

4.1 Delivery and Acceptance of Net Output. Unless otherwise provided herein, PacifiCorp will purchase and Seller will sell all Net Output from the Facility.

4.2 No Sales to Third Parties. During the term of this Agreement, Seller shall not sell any Net Output from the Facility to any entity other than PacifiCorp.

4.3 Energy Delivery Schedule. Seller shall prepare and provide to PacifiCorp, on an ongoing basis, a written schedule of Net Energy expected to be delivered by the Facility (“**Energy Delivery Schedule**”), in accordance with the following:

4.3.1 During the first twelve full calendar months following the Commercial Operation Date, Seller predicts that the Facility will produce and deliver the following monthly amounts (“**Initial Year Energy Delivery Schedule**”):

<u>Month</u>	<u>Energy Delivery (kWh)</u>
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

4.3.2 Seller may revise the Initial Year Energy Delivery Schedule any time prior to the Commercial Operation Date.

4.3.3 Beginning at the end of the ninth full calendar month of operation, and at the end of every 3rd month thereafter, Seller shall supplement the Energy Delivery Schedule with three additional months of forward estimates (which shall be appended to this Agreement as **Exhibit D**) (“**Subsequent Energy Delivery Schedule**”), such that the Energy Delivery Schedule will provide at least three months of scheduled energy estimates at all times. Seller shall provide Subsequent Energy Delivery Schedules no later than 5:00 pm of the 5th day after the due date. If Seller does not provide a Subsequent Energy Delivery Schedule by the above deadline, scheduled energy for the omitted period shall equal the amounts scheduled by Seller for the same three-month period during the previous year.

4.3.4 Beginning with the end of the third month after the Commercial Operation Date and at the end of every third month thereafter the Seller may not revise the immediate next three months of previously provided Energy Delivery Schedules. But by written notice given to PacifiCorp no later than 5:00 PM of the 5th day after the end of any such third month, the Seller may revise all other previously provided Energy

Delivery Schedules. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

4.4 Minimum Availability Obligation. Seller shall cause the Facility to achieve an Availability of at least 85% during each month ("**Guaranteed Availability**").

4.5 Liquidated Damages for Output Shortfall. If the Availability in any given month falls below the Guaranteed Availability, the resulting shortfall shall be expressed in kWh as the "**Output Shortfall.**" The Output Shortfall shall be calculated in accordance with the following formula:

$$\text{Output Shortfall} = \frac{(\text{Guaranteed Availability} - \text{Availability}) * \text{Scheduled Monthly Energy Delivery}}$$

Seller shall pay PacifiCorp for any Output Shortfall at the lower of (1) the positive difference, if any, of the Index Price minus the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices; or (2) the weighted average of the On-Peak and Off-Peak monthly Conforming Energy Purchase Prices ("**Output Shortfall Damages**").

$$\text{Output Shortfall Damages} = \text{Output Shortfall} * \text{Output Shortfall Price}$$

Where:

$$\text{Output Shortfall Price} = \begin{cases} (\text{Index Price} - \text{Weighted Average CEPP}), & \text{except} \\ \text{that if Output Shortfall Price} < 0, & \text{then Output Shortfall Price} = 0 \end{cases}$$

$$\text{Weighted Average CEPP} = \text{the weighted average On-Peak and Off-Peak Conforming Energy Purchase Prices for the month of Output Shortfall}$$

If an Output Shortfall occurs in any given month, Seller may owe PacifiCorp liquidated damages. Each Party agrees and acknowledges that (a) the damages that PacifiCorp would incur due to the Facility's failure to achieve the Guaranteed Availability would be difficult or impossible to predict with certainty, and (b) the liquidated damages contemplated in this Section 4.5 are a fair and reasonable calculation of such damages.

4.6 Audit Rights. In addition to data provided under Sections 9.2 and 9.3, PacifiCorp shall have the right, but not the obligation, to audit the Facility's compliance with its Guaranteed Availability using any reasonable methods. Seller agrees to retain all performance related data for the Facility for a minimum of three years, and to cooperate with PacifiCorp in the event PacifiCorp decides to audit such data.

SECTION 5: PURCHASE PRICES

5.1 Energy Purchase Price. Except as provided in Section 5.3, PacifiCorp will pay Seller Conforming Energy or Non-Conforming Energy Purchase Prices for Net Output adjusted

for the month and On-Peak Hours or Off-Peak Hours and the wind integration cost using the following formulae, in accordance with Commission Order Nos. 30423, 30497, and 30744:

$$\text{Conforming Energy Purchase Price} = (\text{AR}_{ce} * \text{MPM}) - \text{WIC}$$

$$\text{Non-Conforming Energy Purchase Price} = (\text{AR}_{nce} * \text{MPM}) - \text{WIC}$$

Where:

AR_{ce} = Conforming Energy annual rate from Table 1, below, for the year of the Net Output.

AR_{nce} = *the lower of:*
 85% of the Conforming Energy annual rate from Table 1, below, for the year of Net Output

or

85% of weighted average of the daily On-Peak and Off-Peak Dow Jones Mid-Columbia index prices for firm energy for the month, or portion of month, of Net Output.

MPM = monthly On-Peak or Off-Peak multiplier from Table 2, below, that corresponds to the month of the Net Output and whether the Net Output occurred during On-Peak Hours or Off-Peak Hours.

WIC = \$5.10/MWh, the wind integration cost prescribed in Commission Order No. 30497.

Example calculations are provided in **Exhibit G**.

Table 1: Conforming Energy Annual Rates (from Commission Order No. 30744)*

Year	Conforming Energy Annual Rate (AR_{ce}) \$/MWh
2009	76.73
2010	75.83
2011	77.95
2012	80.24
2013	82.14
2014	84.09
2015	86.09
2016	88.25
2017	90.34
2018	92.60
2019	94.80
2020	97.05

* If Seller has elected levelized pricing for Net Output, additional security requirements in Section 11.2 apply.

2021	99.36
2022	101.73
2023	104.15
2024	106.64
2025	109.19
2026	112.30
2027	115.50
2028	118.80
2029	122.20
2030	125.71
2031	128.55

Table 2: Monthly On-Peak/Off-Peak Multipliers (from Commission Order No. 30423)

Month	On-Peak Hours	Off-Peak Hours
January	103%	94%
February	105%	97%
March	95%	80%
April	95%	76%
May	92%	63%
June	94%	65%
July	121%	92%
August	121%	106%
September	109%	99%
October	115%	105%
November	110%	96%
December	129%	120%

5.2 Payment.

For each Billing Period in each Contract Year, PacifiCorp shall pay Seller as follows:

For delivery of Conforming Energy:

$$\text{Payment} = (\text{CEnergy}_{\text{On-Peak}} * \text{CEPPrice}_{\text{On-Peak}} / 1000) + (\text{CEnergy}_{\text{Off-Peak}} * \text{CEPPrice}_{\text{Off-Peak}} / 1000)$$

For delivery of Non-Conforming Energy:

$$\text{Payment} = (\text{NCEnergy}_{\text{On-Peak}} * \text{NCEPPrice}_{\text{On-Peak}} / 1000) + (\text{NCEnergy}_{\text{Off-Peak}} * \text{NCEPPrice}_{\text{Off-Peak}} / 1000)$$

Where:

- CEnergy = Conforming Energy in kWh
- CEPPrice = Conforming Energy Purchase Price in \$/MWh
- NCEnergy = Non-Conforming Energy in kWh
- NCEPPrice = Non-Conforming Energy Purchase Price in \$/MWh
- On-Peak = the corresponding value for On-Peak Hours

Off-Peak = the corresponding value for Off-Peak Hours

5.3 Inadvertent Energy. PacifiCorp may accept Inadvertent Energy at its sole discretion, but will not purchase or pay for Inadvertent Energy.

SECTION 6: OPERATION AND CONTROL

6.1 Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, Prudent Electrical Practices and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code as such laws and code may be amended from time to time. PacifiCorp shall have no obligation to purchase Net Output from the Facility to the extent the interconnection between the Facility and PacifiCorp's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required as a result of Seller's non-compliance with the Generation Interconnection Agreement. PacifiCorp shall have the right to inspect the Facility to confirm that Seller is operating the Facility in accordance with the provisions of this Section 6 upon reasonable notice to Seller. Seller is solely responsible for the operation and maintenance of the Facility. PacifiCorp shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.

6.2 Energy Acceptance.

6.2.1 Voluntary Curtailment by PacifiCorp. Seller shall curtail deliveries of Net Output and associated Environmental Attributes at any time, in whole or in part, and for any duration specified by PacifiCorp with no less than ten (10) minutes (or such lesser time as may be provided for, as between Transmission Provider and Interconnection Provider, in the Generation Interconnection Agreement) prior notice (which may be given by telephone) from PacifiCorp to Seller. PacifiCorp shall take reasonable steps to confirm Seller's receipt of such notice. The MWh amount of Net Output curtailed pursuant to this Section 6.2.1 ("**Curtailment Energy**") shall be reasonably determined by Seller after the fact based on the amount of energy that could have been generated at the Facility and delivered to PacifiCorp as Net Output at the Point of Delivery but that was not generated and delivered because of the curtailment. Seller shall determine the quantity of Curtailment Energy based on (1) the time and duration of the curtailment period and (2) the number of MWhs that would have been generated based on the wind velocities recorded at the Facility during the period of curtailment and the tested and verified power curve for the Wind Turbines provided in **Exhibit A**. Seller shall promptly provide PacifiCorp with access to such information and data as PacifiCorp may reasonably require to confirm to its reasonable satisfaction the amount of Curtailment Energy. PacifiCorp shall pay Seller for the Curtailment Energy at the then applicable Conforming Energy Purchase Price. Notwithstanding any other provision hereof, during any period of curtailment pursuant to this Section 6.2.1, Seller shall not generate Net Output to the extent curtailed by PacifiCorp, or sell any portion of the Facility's energy to any third party. Notwithstanding the foregoing, PacifiCorp's

obligation to pay for Curtailment Energy pursuant to this Section 6.2.1 shall not apply during any times Seller would otherwise have been required to curtail pursuant to Section 6.2.2 and during any times prior to the Commercial Operation Date.

6.2.2 Required Curtailment. PacifiCorp shall not be obligated to purchase, receive or pay for Net Output (nor shall it be liable for associated unrealized Production Tax Credits or Environmental Attributes) that is not delivered to the Point of Delivery during times and to the extent that such Net Output is not delivered to the Point of Delivery because (a) the interconnection between the Facility and the System is disconnected, suspended or interrupted, in whole or in part, pursuant to the terms of the Generation Interconnection Agreement, (b) the Network Service Provider or Transmission Provider Curtails (as defined in the Tariff) Net Output or order PacifiCorp to curtail Net Output, (c) the Facility's Output is not received because the Facility is not fully integrated or synchronized with the System, or (d) an event of Force Majeure prevents either Party from delivering or receiving Net Output. The MWh amount of Net Output curtailed pursuant to this Section 6.2.2 shall be reasonably determined by Seller after the fact based on the amount of energy that could have been generated at the Facility and delivered to PacifiCorp as Net Output but that was not generated and delivered because of the curtailment. Seller shall determine the quantity of such curtailed energy based on (x) the time and duration of the curtailment period and (y) wind conditions recorded at the Facility during the period of curtailment and the tested and verified power curve for the Wind Turbines. Seller shall promptly provide PacifiCorp with access to such information and data as PacifiCorp may reasonably require to confirm to its reasonable satisfaction the amount of energy that was not generated or delivered because of a curtailment described in this Section 6.2.2.

6.2.3 PacifiCorp as Merchant. Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser under this Agreement, has no responsibility for or control over PacifiCorp Transmission or any successor Transmission Provider.

6.3 Outages.

6.3.1 Planned Outages. Except as otherwise provided herein, Seller shall not schedule Planned Outage during any portion of the months of [(list peak months) November, December, January, February, June, July, and August], except to the extent a Planned Outage is reasonably required to enable a vendor to satisfy a guarantee requirement in a situation in which the vendor is not otherwise able to perform the guarantee work at a time other than during one of the months specified above. Seller shall, in **Exhibit D**, provide PacifiCorp with an annual forecast of Planned Outages for each Contract Year at least one (1) month, but no more that three (3) months, before the first day of that Contract Year, and shall promptly update such schedule, or otherwise change it only, to the extent that Seller is reasonably required to change it in order to comply with Prudent Electrical Practices. Seller shall not schedule more than one hundred fifty (150) hours of Planned Outages for each calendar year. Seller shall not schedule any maintenance of Interconnection Facilities during such months, without the

prior written approval of PacifiCorp, which approval may be withheld by PacifiCorp in its sole discretion.

6.3.2 Maintenance Outages. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller shall notify PacifiCorp of the proposed Maintenance Outage as soon as practicable but in any event at least five (5) days before the outage begins (or such shorter period to which PacifiCorp may reasonably consent in light of then existing wind conditions). Upon such notice, the Parties shall plan the Maintenance Outage to mutually accommodate the reasonable requirements of Seller and the service obligations of PacifiCorp. Seller shall take all reasonable measures and use best efforts consistent with Prudent Electrical Practices to not schedule any Maintenance Outage during the following periods: [June 15 through June 30, July, August, and September 1 through September 15]. Seller shall include in such notice of a proposed Maintenance Outage the expected start date and time of the outage, the amount of generation capacity of the Facility that will not be available, and the expected completion date and time of the outage. Seller may provide notices under this Section 6.3.2 orally. Seller shall confirm any such oral notification in writing as soon as practicable. PacifiCorp shall promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller shall use all reasonable efforts to comply with PacifiCorp's request to modify the schedule for a Maintenance Outage if such modification has no substantial impact on Seller. Seller shall notify PacifiCorp of any subsequent changes in generation capacity of the Facility during such Maintenance Outage and any changes in the Maintenance Outage completion date and time. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to minimize the frequency and duration of Maintenance Outages.

6.3.3 Forced Outages. Seller shall promptly provide to PacifiCorp an oral report, via telephone to a number specified by PacifiCorp, of any Forced Outage of the Facility. Such report shall include the amount of generation capacity of the Facility that will not be available because of the Forced Outage and the expected return date and time of such generation capacity. Seller shall promptly update the report as necessary to advise PacifiCorp of changed circumstances. If the Forced Outage resulted in more than 15% of the Facility Capacity Rating of the Facility being unavailable, Seller shall confirm the oral report in writing as soon as practicable. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to avoid Forced Outages and to minimize their duration.

6.3.4 Notice of Deratings and Outages. Without limiting other notice requirements, Seller shall notify PacifiCorp, via telephone to a number specified by PacifiCorp, of any limitation, restriction, derating or outage known to Seller that affects the generation capacity of the Facility in an amount greater than five percent (5%) of the Facility Capacity Rating for the following day. Seller shall promptly update such notice to reflect any material changes to the information in such notice.

6.3.5 Effect of Outages on Estimated Output. Seller shall factor Planned Outages and Maintenance Outages that Seller reasonably expects to encounter in the

ordinary course of operating the Facility into the Scheduled Monthly Energy Delivery amounts in the Energy Delivery Schedule set forth in **Exhibit D**.

6.4 Scheduling.

6.4.1 Daily Scheduling. [provide if applicable]

6.4.2 Cooperation and Standards. With respect to any and all scheduling requirements in this Agreement, (a) Seller shall cooperate with PacifiCorp with respect to scheduling Net Output, and (b) each Party shall designate authorized representatives to communicate with regard to scheduling and related matters arising hereunder.

6.4.3 Schedule Coordination. If, as a result of this Agreement, PacifiCorp is deemed by an RTO to be financially responsible for Seller's performance under the Generation Interconnection Agreement due to Seller's lack of standing as a "scheduling coordinator" or other RTO recognized designation, qualification or otherwise, then (a) Seller shall acquire such RTO recognized standing (or shall contract with a third party who has such RTO recognized standing) such that PacifiCorp is no longer responsible for Seller's performance under the Generation Interconnection Agreement, and (b) Seller shall defend, indemnify and hold PacifiCorp harmless against any liability arising due to Seller's performance or failure to perform under the Generation Interconnection Agreement or RTO requirement.

6.5 Delivery Exceeding the Maximum Facility Delivery Rate. Seller shall not deliver energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Facility Delivery Rate. Seller's failure to limit such deliveries to the Maximum Facility Delivery Rate shall be a material breach of this Agreement.

6.6 Increase to the Maximum Facility Delivery Rate. Seller may, in accordance with this Section 6.6 and upon written approval by PacifiCorp, increase the Maximum Facility Delivery Rate, unless, after such increase, under normal or average design conditions the Net Output would exceed the Maximum Monthly Purchase Obligation in any given month. PacifiCorp approval of such increase is conditioned on the Public Utility Regulatory Policies Act (16 U.S.C. 824a-3) and other applicable law requiring PacifiCorp to purchase the incremental Net Output. If Seller increases the Maximum Facility Delivery Rate, PacifiCorp will continue to pay for base Net Output at the rate(s) prescribed by Section 5 of this Agreement, and PacifiCorp will pay for incremental Net Output resulting from the increase to the Maximum Facility Delivery Rate at the rate(s) prescribed by the Commission at the time of PacifiCorp's approval, if granted, of the increase in the Maximum Facility Delivery Rate. PacifiCorp shall, in its approval, if granted, specify a reasonable means of distinguishing such base Net Output from such incremental Net Output.

SECTION 7: MOTIVE FORCE

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp a motive force plan including an hourly wind profile acceptable to PacifiCorp in its reasonable discretion and attached hereto as **Exhibit F-1**, together with a certification from a Licensed Professional

Engineer to PacifiCorp attached hereto as **Exhibit F-2**, certifying that the implementation of the fuel or motive force plan can reasonably be expected to provide fuel or motive force to the Facility for the duration of this Agreement adequate to generate power and energy in quantities necessary to deliver the Average Annual Net Output.

SECTION 8: GENERATION FORECASTING COSTS

8.1 Forecast Service Election. PacifiCorp may, in its discretion, add forecasting services for Seller's Facility to PacifiCorp's existing contract with a qualified wind-energy-production forecasting vendor, which contract and vendor may change during the term of this Agreement.

8.2 Seller's Forecast-Cost Share. Pursuant to Commission Order No. 30497, Seller shall be responsible for 50% of PacifiCorp's cost of adding such forecasting services ("Seller's Forecast-Cost Share") up to Seller's Capped Forecast-Cost Share.

8.3 Cap on Seller's Forecast-Cost Share. Seller's Forecast-Cost Share for a given Contract Year is capped at 0.1% of total payments made by PacifiCorp to Seller for Net Output during the previous Contract Year ("Seller's Capped Forecast-Cost Share"). If the last Contract Year of this Agreement is shorter than a full calendar year, the cap will be prorated for that shortened year. For the year(s) prior to the second Contract Year of this agreement that equals a full calendar year, Seller's Forecast-Cost Share is capped at 0.1% of estimated payments for Net Output based on the Energy Delivery Schedule.

8.4 Payment. Seller shall pay to PacifiCorp Seller's Forecast-Cost Share uncapped by Section 8.3 for each Contract Year in equal payments for each month of such year except the last month of such year. (For example, in a Contract Year equaling a full calendar year, Seller would pay 1/11th of Seller's Forecast-Cost Share during each of the first 11 months.) In the last month of each Contract Year, PacifiCorp shall refund to Seller the amount paid by Seller under this Section in excess, if any, of Seller's Capped Forecast-Cost Share. For a Contract Year encompassed by just one calendar month, Seller's payment to PacifiCorp and PacifiCorp's refund to Seller shall be calculated and paid simultaneously. To the extent practicable, payments and refunds under this Section shall be included in monthly payments and invoices under Section 10.

SECTION 9: METERING; REPORTS AND RECORDS

9.1 Metering Equipment. PacifiCorp shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment required pursuant to the Generation Interconnection Agreement.

9.1.1 Location of Metering Equipment. Metering shall be performed at the location and in the manner specified in **Exhibit B** and the Generation Interconnection Agreement. All quantities of energy purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of Delivery, so that the purchased amount reflects the net amount of power flowing into PacifiCorp's system

at the Point of Delivery. The loss adjustment shall be a reduction of 2% of the kWh energy production recorded on the Facility output meter until actually measured and calibrated at the meter by PacifiCorp.

9.1.2 Maintenance of Metering Equipment. PacifiCorp shall periodically inspect, test, repair and replace the metering equipment as provided in the Generation Interconnection Agreement or at the request of Seller if Seller has reason to believe metering may be off and requests an inspection in writing. Seller shall bear the cost for any Seller requests. If any of the inspections or tests disclose an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three Billing Periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.

9.1.3 Costs of Metering Equipment. To the extent not otherwise provided in the Generation Interconnection Agreement, all PacifiCorp's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

9.2 Telemetry. Seller shall provide telemetry equipment and facilities capable of transmitting the following information concerning the Facility pursuant to the Generation Interconnection Agreement and to PacifiCorp on a real-time basis, and will operate such equipment when requested by PacifiCorp to indicate:

- (a) instantaneous MW output at the Point of Delivery;
- (b) Net Output; and
- (c) the Facility's total instantaneous generation capacity.

Seller shall also transmit to PacifiCorp any other data from the Facility that Seller receives on a real-time basis, including meteorological data, wind speed data, wind direction data and gross output data. Seller shall provide such real-time data to PacifiCorp in the same detail that Seller receives the data (e.g., if Seller receives the data in four second intervals, PacifiCorp shall also receive the data in four second intervals). PacifiCorp shall have the right from time to time to require Seller to provide additional telemetry equipment and facilities to the extent necessary and reasonable.

9.3 Monthly Reports and Logs. Within thirty (30) days after the end of each Billing Period, Seller shall provide to PacifiCorp the following:

9.3.1 Reports. A report in electronic format, which report shall include (a) summaries of the Facility's wind and output data for the Billing Period in intervals not to exceed one hour (or such shorter period as is reasonably possible with commercially available technology), including information from the Facility's computer monitoring

system; (b) summaries of any other significant events related to the construction or operation of the Facility for the Billing Period; (c) details of Availability of the Facility for the Billing Period sufficient to calculate Availability and including hourly average wind velocity measured at turbine hub height and ambient air temperature; and (d) any supporting information that PacifiCorp may from time to time reasonably request (including historical wind data for the Facility).

9.3.2 Electronic Fault Log. Seller shall maintain an electronic fault log of operations of the Facility during each hour of the term of this Agreement commencing on the Commercial Operation Date. Seller shall provide PacifiCorp with a copy of the electronic fault log within thirty (30) days after the end of the Billing Period to which the fault log applies.

9.4 Cost of Performance Monitoring. Seller shall pay for and design, furnish, install, own, inspect, test, maintain and replace all equipment required in order to record data required for the reports and logs in Sections 9.3.

SECTION 10: BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 Payment for Net Output. On or before the thirtieth (30th) day following the end of each Billing Period, PacifiCorp shall send to Seller payment for Seller's deliveries of Net Output to PacifiCorp, together with computations supporting such payment. PacifiCorp may offset any such payment to reflect amounts owing from Seller to PacifiCorp pursuant to this Agreement, the Generation Interconnection Agreement, and any other agreement(s) between the Parties. Any such offsets shall be separately itemized on the statement accompanying each payment to Seller.

10.2 Annual Invoicing for Output Shortfall. Thirty calendar days after the end of each Contract Year, PacifiCorp shall deliver to Seller an invoice showing PacifiCorp's computation of Output Shortfall, if any, for all Billing Periods in the prior Contract Year and Output Shortfall Damages, if any. In preparing such invoices, PacifiCorp shall utilize the meter data provided to PacifiCorp for the Contract Year in question, but may also rely on historical averages and such other information as may be available to PacifiCorp at the time of invoice preparation if the meter data for such Contract Year is then incomplete or otherwise not available. To the extent required, PacifiCorp shall prepare any such invoice as promptly as practicable following its receipt of actual results for the relevant Contract Year. Seller shall pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice, and shall within thirty (30) days after receiving the invoice raise any objections regarding any disputed portion of the invoice. Objections not made by Seller within the thirty-day period shall be deemed waived.

10.3 Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; *provided, however*, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.

10.4 Disputed Amounts. If either Party, in good faith, disputes any amount due pursuant to an invoice rendered hereunder, such Party shall notify the other Party of the specific

basis for the dispute and, if the invoice shows an amount due, shall pay that portion of the statement that is undisputed, on or before the due date. Except with respect to invoices provided under Section 10.2, any such notice shall be provided within two (2) years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due to the other Party, or if the Parties resolve the payment dispute, the amount due shall be paid within five (5) days after such determination or resolution, along with interest in accordance with Section 10.3.

SECTION 11: SECURITY

11.1 Delay Security:

11.1.1 Duty to Post Security. Seller, within 5 business days after IPUC approval of this Agreement, shall post a letter of credit in the amount of _____ (“**Delay Security**”). The letter of credit shall be an irrevocable standby letter of credit, from an institution that has a long-term senior unsecured debt rating of “A” or greater from Standard & Poors or “A2” or greater from Moody’s, in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests thereunder. To the extent PacifiCorp’s draws on the letter of credit cause the remaining balance of the letter of credit to drop below _____, Seller, within 15 calendar days, shall restore the letter of credit to no less than \$_____.

11.1.2 Right to Draw on Security. PacifiCorp shall have the right to draw on the Delay Security to collect Delay Liquidated Damages. Commencing on or about first of each month, PacifiCorp will invoice Seller for Delay Liquidated Damages incurred, if any, during the preceding month. If Seller fails to pay any undisputed amount within 30 calendar days of the invoice date, PacifiCorp shall draw such amount on the Delay Security. The Parties will make billings and payments for Delay Liquidated Damages in accordance with Section 10.

11.1.3 Additional Security. In the event PacifiCorp reasonably determines at any time that the remaining amount of Delay Security is less than the estimated value of Delay Liquidated Damages (due to upward changes in market price and/or due to Seller’s inability to meet the Scheduled Commercial Operation Date), PacifiCorp may demand that Seller post, and Seller will post within 5 business days of receipt of such demand, additional Delay Security equal to the estimated (unpaid) Delay Liquidated Damages.

11.1.4 Termination of Letter of Credit. Unless PacifiCorp disputes whether Seller has paid all Delay Liquidated Damages, Seller may terminate the Delay Security letter of credit on or after the 180th calendar day following commencement of Commercial Operation by providing PacifiCorp with no less than thirty-day advance written notice of its intent to do so.

11.1.5 Default. Seller’s failure to post and maintain Delay Security in accordance with Section 11.1 will constitute an event of default, unless cured in accordance with Section 12.1.1 of this Agreement.

11.2 Default Security (Levelized Pricing Only). If Seller has adopted levelized pricing for Net Output, Seller will provide security to PacifiCorp pursuant to Commission Order Nos. 21690, 21800, 29482, 29587 and related orders ("**Default Security**") as set forth in Addendum ___ [add addendum if Seller elects levelized pricing].

SECTION 12: DEFAULTS AND REMEDIES

12.1 The following events shall constitute defaults under this Agreement:

12.1.1 Non-Payment. Seller's failure to make a payment when due under this Agreement or post and maintain security in conformance with the requirements of Section 11 or maintain insurance in conformance with the requirements of Section 14 of this Agreement, if the failure is not cured within ten (10) business days after the non-defaulting Party gives the defaulting Party a notice of the default.

12.1.2 Breach of Material Term. Breach by a Party of a representation or warranty set forth in this Agreement, if such failure or breach is not cured within thirty (30) days following written notice.

12.1.3 Default on Other Agreements. Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Generation Interconnection Agreement) within the time allowed for a cure under such agreement or instrument.

12.1.4 Insolvency. A Party (a) makes an assignment for the benefit of its creditors; (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (c) becomes insolvent; or (d) is unable to pay its debts when due.

12.1.5 Material Adverse Change. A Material Adverse Change has occurred with respect to Seller and Seller fails to provide such performance assurances as are reasonably requested by PacifiCorp, within fifteen (15) days from the date of such request.

12.1.6 Sale to Third-Party. Seller's sale of Net Output to an entity other than PacifiCorp, as prohibited by Section 4.2.

12.1.7 Non-Delivery. Unless excused by an event of Force Majeure, Seller's failure to deliver any Net Energy for three consecutive calendar months.

12.1.8 A Party otherwise fails to perform any material obligation (including but not limited to failure by Seller to meet any deadline set forth in Section 2.2) imposed upon that Party by this Agreement if the failure is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party notice of the default; *provided, however*, that, upon written notice from the defaulting Party, this thirty (30) day period

shall be extended by an additional ninety (90) days if (a) the failure cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional ninety (90) day period, and (c) the defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

12.2 In the event of any default hereunder, the non-defaulting Party must notify the defaulting Party in writing of the circumstances indicating the default and outlining the requirements to cure the default. If the default has not been cured within the prescribed time, above, the non-defaulting Party may terminate this Agreement at its sole discretion by delivering written notice to the other Party and may pursue any and all legal or equitable remedies provided by law or pursuant to this Agreement. The rights provided in this Section 12 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.

12.3 In the event this Agreement is terminated because of Seller's default and Seller wishes to again sell Net Output from the facility using the same motive force to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller do so subject to the terms of this Agreement, including but not limited to the purchase prices as set forth in (Section 5), until the Expiration Date (as set forth in Section 2.1). At such time Seller and PacifiCorp agree to execute a written document ratifying the terms of this Agreement.

12.4 If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp for Output Shortfall for a period of eighteen (18) months from the date of termination plus the estimated administrative cost to acquire the replacement power.

12.5 Recoupment of Damages.

- (a) Default Security Available. If Seller has posted Default Security, PacifiCorp may draw upon that security to satisfy any damages, above.
- (b) Default Security Unavailable. If Seller has not posted Default Security, or if PacifiCorp has exhausted the Default Security, PacifiCorp may collect any remaining amount owing by partially withholding future payments to Seller over a reasonable period of time. PacifiCorp and Seller shall work together in good faith to establish the period, and monthly amounts, of such withholding so as to avoid Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility.

12.6 Upon an event of default or termination event resulting from default under this Agreement, in addition to and not in limitation of any other right or remedy under this Agreement or applicable law (including any right to set-off, counterclaim, or otherwise withhold payment), the non-defaulting Party may at its option set-off, against any amounts owed to the defaulting Party, any amounts owed by the defaulting Party under any contract(s) or agreement(s) between the Parties. The obligations of the Parties shall be deemed satisfied and discharged to the extent of any such set-off. The non-defaulting Party shall give the defaulting Party written notice of any set-off, but failure to give such notice shall not affect the validity of the set-off.

12.7 Amounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PacifiCorp for the same.

SECTION 13: INDEMNIFICATION

13.1 Indemnities.

13.1.1 Indemnity by Seller. Seller shall release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (a) the energy delivered by Seller under this Agreement to and at the Point of Delivery, (b) any facilities on Seller's side of the Point of Delivery, (c) Seller's operation and/or maintenance of the Facility, or (d) arising from this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PacifiCorp, Seller or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of PacifiCorp, its directors, officers, employees, agents or representatives.

13.1.2 Indemnity by PacifiCorp. PacifiCorp shall release, indemnify and hold harmless Seller, its directors, officers, agents, lenders and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with the energy delivered by Seller under this Agreement after the Point of Delivery, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of Seller, its directors, officers, employees, agents, lenders or representatives.

13.2 No Dedication. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PacifiCorp as an independent public utility corporation or Seller as an independent individual or entity.

13.3 CONSEQUENTIAL DAMAGES. EXCEPT TO THE EXTENT SUCH DAMAGES ARE INCLUDED IN THE LIQUIDATED DAMAGES, DELAY DAMAGES, OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE.

SECTION 14: LIABILITY AND INSURANCE

14.1 Certificates and Certified Copies of Policies. Seller shall provide PacifiCorp with certificates of insurance evidencing the policies contemplated by Section ___ prior to the date by which such policies are required to be maintained as set forth in Section ___. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims-made." PacifiCorp shall have the right to request certified "true and correct" copies of the insurance policies at any time during the term of the Agreement and Seller shall furnish to PacifiCorp within 30 days of the request.

14.2 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller under this Agreement, prior to the commencement of interconnection with the System and until the termination of this Agreement, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by A.M. Best Company (or with a company or companies having equivalent rating) the following insurance coverage:

14.2.1 Employers' Liability insurance with limits of at least \$1,000,000;

14.2.2 Commercial General Liability insurance with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence. Such insurance shall include, but not necessarily be limited to, specific coverage for contractual liability encompassing the indemnification provisions in this Agreement, broad form property damage liability, personal injury liability, explosion and collapse hazard coverage, products/completed operations liability, and, where applicable, watercraft protection and indemnity liability;

14.2.3 Excess Umbrella Liability insurance with a single limit of at least \$20,000,000 per occurrence in excess of the limits of insurance provided above; and

14.2.4 All-Risk insurance in an amount at least equal to the 80% of the replacement value of the Facility. The policy shall provide coverage in an amount equal to the full replacement value of the Facility for "all risks" of physical loss or damage except as hereinafter provided, including coverage for earth movement, flood, boiler and machinery, transit and off-site storage accident exposure, but excluding the equipment owned or leased by Operator and its subcontractors and their personal property. The policy may contain separate sublimits and deductibles subject to insurance company underwriting guidelines. Seller shall maintain the policy in accordance with terms available in the insurance market for similar electric generating facilities. The policy shall include coverage for business interruption in an amount covering a period of indemnity equal to twelve (12) months.

14.3 Insurance Structure. Seller may satisfy the amounts of insurance required in Section 14.2 above by purchasing primary coverage in the amounts specified or by buying a separate excess umbrella liability policy together with lower limit primary underlying coverage. The structure of the coverage is at Seller's option, but the total amount of insurance must the above requirements.

14.4 Occurrence-Based Coverage. The coverage required above, and any umbrella or excess coverage, shall be "occurrence" form policies. In the event that any policy is written on a "claims-made" basis and such policy is not renewed or the retroactive date of such policy is to be changed, the first insured Party shall obtain or cause to be obtained for each such policy or policies the broadest basic and supplemental extended reporting period coverage or "tail" reasonably available in the commercial insurance market for each such policy or policies and shall provide the other Party with proof that such basic and supplemental extended reporting period coverage or "tail" has been obtained.

14.5 Endorsement Items. Seller shall immediately cause its insurers to amend its Commercial General Liability and Umbrella or Excess Liability policies with all of the following endorsement items, and to amend its Workers' Compensation and Auto Liability policies with the endorsement items set forth in Sections 14.5.3 and 14.5.4 below:

14.5.1 PacifiCorp and its Affiliates, their respective directors, officers, employees, and agents as an additional insured under this policy and to the maximum extent allowed by law, shall be provided with coverages at least as broad as those required of the Seller by this Agreement;

14.5.2 This insurance is primary with respect to the interest of PacifiCorp and its Affiliates, their respective directors, officers, employees, and agents; and any other insurance maintained by them in excess and not contributory with this insurance;

14.5.3 Insurer hereby waives all rights of subrogation against PacifiCorp and its Affiliates, their respective directors, officers, employees, and agents; and

14.5.4 Notwithstanding any provision of the policy, this policy may not be canceled, non-renewed or materially changed by the insurer without giving ten (10) days' prior written notice to PacifiCorp.

14.6 Periodic Review. PacifiCorp may review this schedule of required insurance provided in Section 14 as often as once every two (2) years. PacifiCorp may in its discretion require the Seller to make changes to the insurance coverage requirements in this Section 14 to the extent reasonably necessary to cause such policies and coverages to conform to the insurance policies and coverages typically obtained or required for power generation facilities comparable to the Facility at the time of PacifiCorp's review takes place with the consent of Seller, which shall not be unreasonably withheld.

SECTION 15: FORCE MAJEURE

15.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the reasonable control of the Seller or of PacifiCorp which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, flood, storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority which is in each case (i) beyond the reasonable control of

such Party, (ii) by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and (iii) by the exercise of due diligence, such Party shall be unable to prevent or overcome. Force Majeure, however, specifically excludes the cost or availability of fuel or motive force to operate the Facility or changes in market conditions that affect the price of energy or transmission. If either Party is rendered wholly or in part unable to perform its obligation under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

15.1.1 the non-performing Party, shall, within two (2) weeks after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence, including the start date of the Force Majeure, the cause of Force Majeure, whether the Facility remains partially operational and the expected end date of the Force Majeure;

15.1.2 the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure;

15.1.3 the non-performing Party uses its best efforts to remedy its inability to perform; and

15.1.4 the non-performing Party shall provide prompt written notice to the other Party at the end of the Force Majeure event detailing the end date, cause there of, damage caused there by and any repairs that were required as a result of the Force Majeure event, and the end date of the Force Majeure.

15.2 No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

15.3 Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

SECTION 16: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

SECTION 17: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Idaho, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

SECTION 18: PARTIAL INVALIDITY

It is not the intention of the Parties to violate any laws governing the subject matter of this Agreement. If any of the terms of the Agreement are finally held or determined to be invalid, illegal or void as being contrary to any applicable law or public policy, all other terms of the Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties to this Agreement.

SECTION 19: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

SECTION 20: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

PacifiCorp's compliance with the terms of this Agreement is conditioned on Seller's submission to PacifiCorp prior to the Commercial Operation Date and Seller's maintenance thereafter of copies of all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility.

SECTION 21: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any entity with which PacifiCorp may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of PacifiCorp's rights, obligations, and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. PacifiCorp shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

SECTION 22: ENTIRE AGREEMENT

22.1 This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding PacifiCorp's purchase of Net Output from the Facility. No modification of this Agreement shall be effective unless it is in writing and signed by both Parties.

22.2 By executing this Agreement, each Party releases the other from any claims, known or unknown, that may have arisen prior to the Effective Date with respect to the Facility and any predecessor facility proposed to have been constructed on the site of the Facility.

SECTION 23: NOTICES

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested.

Notices	PacifiCorp	Seller
All Notices	PacifiCorp 825 NE Multnomah Street Portland, OR 97232 Attn: Contract Administration, Suite 600 Phone: (503) 813 - 5952 Facsimile: (503) 813 - 6291 Duns: 00-790-9013 Federal Tax ID Number: 93-0246090	
All Invoices:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
Scheduling:	Attn: Resource Planning, Suite 600 Phone: (503) 813 - 6090 Facsimile: (503) 813 - 6265	
Payments:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
Wire Transfer:	Bank One N.A. To be provided in separate letter from PacifiCorp to Seller	
Credit and Collections:	Attn: Credit Manager, Suite 1900 Phone: (503) 813 - 5684 Facsimile: (503) 813-5609	
With Additional Notices of an Event of Default or Potential Event of Default to:	Attn: PacifiCorp General Counsel Phone: (503) 813-5029 Facsimile: (503) 813-7252	

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The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the date first above written.

PacifiCorp

Seller

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
DESCRIPTION OF SELLER'S FACILITY
[Seller to Complete]

Seller's Facility consists of _____ generator(s) manufactured by _____ . More specifically, each generator at the Facility is described as:

Type (synchronous or inductive):

Model:

Number of Phases:

Rated Output (kW):

Rated Output (kVA):

Rated Voltage (line to line):

Rated Current (A): Stator: _____ A; Rotor: _____ A

Maximum kW Output: _____ kW **Maximum kVA Output:** _____ kVA

Minimum kW Output: _____ kW

Manufacturer's Guaranteed Cut-in Wind Speed [if applicable]:

Facility Capacity Rating: _____ kW at _____

Identify the maximum output of the generator(s) and describe any differences between that output and the Nameplate Capacity Rating:

Station service requirements, and other loads served by the Facility, if any, are described as follows:

Location of the Facility: The Facility is located in _____ County, Idaho. The location is more particularly described as follows:

[legal description of parcel]

Power factor requirements:

Rated Power Factor (PF) or reactive load (kVAR):

Attach documentation of the power curve for the generator(s).

EXHIBIT B

POINT OF DELIVERY / PARTIES' INTERCONNECTION FACILITIES

[Seller to provide its own diagram and description]

Instructions to Seller:

1. Include description of point of metering, and Point of Delivery
2. Provide interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Delivery.

**EXHIBIT C
REQUIRED FACILITY DOCUMENTS**

Qualifying Facility Number from FERC:

The following Documents are required to complete this project:

Easements:

Permits:

EXHIBIT D
ENERGY DELIVERY SCHEDULE

[Project Name]		
Scheduled Monthly Energy Delivery		Ave kW/mo
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
TOTAL:		

Planned Outages. Seller will provide a Planned Outage schedule annually not to exceed ____ hours per ____ per year.

EXHIBIT E
START-UP TESTING

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to:

1. Test of mechanical and electrical equipment;
2. Calibration of all monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Point-to-point continuity tests;
6. Bench tests of protective devices; and
7. Tests required by manufacturer(s) and designer(s) of equipment.

Required start-up tests are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PacifiCorp's electrical system, which may include but are not limited to:

1. Turbine/generator mechanical runs and functionality;
2. System operation tests;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Excitation and voltage regulation operation tests;
7. Auto stop/start sequence;
8. Completion of any state and federal environmental testing requirements; and
9. Tests required by manufacturer(s) and designer(s) of equipment.

For wind projects only, the following Wind Turbine Generator Installation Checklists are required documents to be signed off by Manufacturer or Subcontract Category Commissioning Personnel as part of the Commissioning and startup testing:

- | | |
|--|---------------------------------|
| Turbine Installation | |
| Foundation Inspection | |
| Controller Assembly | |
| Power Cables | |
| Cable Installation Checklists including: | Controller |
| | Top Deck / Yaw Deck |
| | Tower Top Section / Saddle |
| | Mid Section Cables or buss bars |
| | Base Section |
| Tower Base Section | |
| Tower Lights and Outlets | |
| Tower Mid Section | |
| Tower Top Section | |
| Nacelle | |
| Rotor | |

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EXHIBIT F-1
MOTIVE FORCE PLAN
WIND SPEED DATA SUMMARIES & HOURLY WIND PROFILE

EXHIBIT F-2

ENGINEER'S CERTIFICATION

(1) THAT THE WIND DATA SUMMARIES IN EXHIBIT F-1 ARE ACCURATE;

_____ [Licensed Professional Engineer's certification]

(2) THAT THE AVERAGE ANNUAL NET OUTPUT ESTIMATE IS _____ KWH PER YEAR IN EACH FULL CALENDAR YEAR OF THIS AGREEMENT BASED ON THE MOTIVE FORCE PLAN IN EXHIBIT F-1;

_____ [Licensed Professional Engineer's certification]

(3) THAT THE FACILITY, UNDER AVERAGE DESIGN CONDITIONS, LIKELY WILL GENERATE NO MORE THAN 10 aMW IN ANY CALENDAR MONTH.

_____ [Licensed Professional Engineer's certification]

EXHIBIT G
SAMPLE ENERGY PURCHASE PRICE CALCULATIONS

The following are samples of calculations of energy purchase prices using the formula and tables in Section 5.1.

The calculation for the non-levelized purchase price during an On-Peak Hour in May of 2009 equals \$76.73/MWh (the 2009 annual rate for Conforming Energy) multiplied by 92% (0.92) (the May On-Peak Hour multiplier) minus \$5.10/MWh (the wind integration cost), which equals \$65.49/MWh.

Table 3: Sample calculations for non-levelized On-Peak Conforming Energy in 2009: Purchase Price = (annual rate * monthly On-Peak multiplier) – wind integration cost.

Month	Conforming Energy Annual Rate for 2009 (per MWh)	On-Peak Hour Multiplier	Wind Integration Cost	Calculated Purchase Price for 2009 On-Peak Conforming Energy (per MWh)
January	\$76.73	103%	\$5.10	\$73.93
February	\$76.73	105%	\$5.10	\$75.47
March	\$76.73	95%	\$5.10	\$67.79
April	\$76.73	95%	\$5.10	\$67.79
May	\$76.73	92%	\$5.10	\$65.49
June	\$76.73	94%	\$5.10	\$67.03
July	\$76.73	121%	\$5.10	\$87.74
August	\$76.73	121%	\$5.10	\$87.74
September	\$76.73	109%	\$5.10	\$78.54
October	\$76.73	115%	\$5.10	\$83.14
November	\$76.73	110%	\$5.10	\$79.30
December	\$76.73	129%	\$5.10	\$93.88

Table 4: Sample calculations for non-levelized Off-Peak Conforming Energy in 2009: Purchase Price = (annual rate * monthly Off-Peak multiplier) – wind integration cost.

Month	Conforming Energy Annual Rate for 2009 (per MWh)	Off-Peak Hour Multiplier	Wind Integration Cost	Calculated Purchase Price for 2009 Off-Peak Conforming Energy (per MWh)
January	\$76.73	94%	\$5.10	\$67.03
February	\$76.73	97%	\$5.10	\$69.33
March	\$76.73	80%	\$5.10	\$56.28
April	\$76.73	76%	\$5.10	\$53.21

Month	Conforming Energy Annual Rate for 2009 (per MWh)	Off-Peak Hour Multiplier	Wind Integration Cost	Calculated Purchase Price for 2009 Off-Peak Conforming Energy (per MWh)
May	\$76.73	63%	\$5.10	\$43.24
June	\$76.73	65%	\$5.10	\$44.77
July	\$76.73	92%	\$5.10	\$65.49
August	\$76.73	106%	\$5.10	\$76.23
September	\$76.73	99%	\$5.10	\$70.86
October	\$76.73	105%	\$5.10	\$75.47
November	\$76.73	96%	\$5.10	\$68.56
December	\$76.73	120%	\$5.10	\$86.98

DRAFT

EXHIBIT H

Seller Authorization to Release Generation Data to PacifiCorp

[Interconnection Customer Letterhead]

Transmission Services

Attn: Director, Transmission Services

825 NE Multnomah, Suite 1600

Portland, OR 97232

RE: _____ Interconnection Request

Dear Sir:

_____ hereby voluntarily authorizes PacifiCorp's Transmission business unit to share _____'s generator interconnection information and generator meter data relating to _____'s _____ Qualifying Facility located in the town of _____, _____ County, _____ with Marketing Affiliate employees of PacifiCorp Energy, including, but not limited to those in the Commercial and Trading group. _____ acknowledges that PacifiCorp did not provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.

Name

Title

Date

DRAFT

EXHIBIT I

Template Seller Certification of Conditions for Commercial Operation

[Seller Letterhead]

[Address to PacifiCorp]

RE: _____ Qualifying Facility

Dear Sir:

[Template for certification to be added.]

Name

Title

Date

XRG Data Request 32

Reference Rocky Mountain Power's Response to XRG's First Production Request, Attachment XRG 1, Part 2 (containing email from Jim Partouw, a Trader for PacifiCorp C&T, to John Younie, PacifiCorp C&T, on January 23, 2009, stating: "We currently have 250 MW of PTP import capability from Brady, but we have sold an option to APS to use this capacity so it will not always be available. . . ." and on January 29, 2009, stating, "Without Network Resource status for this resource, we will need to use PacifiCorp PTP capacity and schedule the energy to load on the PTP reservation.").

- (a) Please provide the public scheduling numbers and OASIS reservation number for the 250 MW PTP import capability referenced.
- (b) Please explain for what purpose PacifiCorp had reserved this 250 MW of PTP transmission.
- (c) Please provide information regarding the designated network resources supporting the entire quantity of the 250 MW PTP capacity reservation. Reference PacifiCorp's OATT §§ 28.2 and 29.2.
- (d) Why was excess 250 MW PTP capacity available such that PacifiCorp was able to sell an option to use it to APS, and such that Mr. Partouw believed PacifiCorp could schedule XRG energy to load on the PTP reservation?
- (e) How has PacifiCorp used the 250 MW of PTP import capability referenced by Mr. Partouw between January 21, 2009 and the date of this request?

Response to XRG Data Request 32

Please note the correct spelling for "Jim Partouw" is Jim Portouw.

- (a) Subpart (a) was withdrawn by XRG in its "Withdrawal of Production Requests Pending Resolution of Summary Judgment Proceedings" dated June 9, 2011.
- (b) PacifiCorp C&T owns the 250 MW PTP Brady import transmission to fulfill contractual obligations with Arizona Public Service Company (APS) in the 1995 Restated Transmission Agreement. In this agreement, PacifiCorp granted APS 250 MW of firm transfer rights from Brady to Four Corners/Glen Canyon Substations.
- (c) Subpart (c) was withdrawn by XRG in its "Withdrawal of Production Requests Pending Resolution of Summary Judgment Proceedings" dated June 9, 2011.
- (d) The APS and PacifiCorp contract executions done in 1995 were a combination of asset change, power exchange, power sale, exchange of transmission rights, and transmission agreements. Please note the time of

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XRG Data Request 32

APS contract execution in 1995 was before Open Access Transmission Tariff and, therefore, there was no distinction between PTP and Network. With regard to PTP transmission reservations, there is no restriction on the utilization as there is for Network transmission. Therefore should PTP reservations owned by PacifiCorp C&T be set aside to fulfill APS obligations not being used by APS in any particular hour, they can be used by PacifiCorp C&T for any legitimate purpose, including the import of XRG energy to load.

- (e) PacifiCorp C&T has used the import capability to fulfill the APS obligations described earlier in this response. When not used by APS, PacifiCorp C&T will use the import capability to transfer Network and non-network resources into the Utah system.

Recordholder: Jim Portouw
Sponsor: To Be Determined

XRG Data Request 33

Reference Rocky Mountain Power's Response to XRG's First Production Request, Attachment XRG 1, Part 2 (containing Jim Partouw's e-mail on January 29, 2009 to John Younie stating, "Another 250 MW exists but APS has first rights to schedule on the path. If APS schedules from Brady we could attempt to wheel through Borah but this would be non-firm.")

- (a) Please provide evidence that the non-firm option discussed was communicated to XRG, or admit that this information was not communicated to XRG.
- (b) Please identify "APS."
- (c) Please identify the public scheduling numbers or the OASIS reservation number for the APS rights. Provide supporting evidence that such rights existed at all times between January 29, 2009 and through September 21, 2010.

Response to XRG Data Request 33

Please note the correct spelling for "Jim Partouw" is Jim Portouw.

- (a) Admit. PURPA requires that QF generation is a Network Resource to serve network load for the utility which requires the use of firm transmission service from the resource to network load. Use of non-firm transmission is not allowed for serving network load. Since the XRG QF resources would be network resources, firm transmission is required and the non-firm option was dismissed as a non-viable option. PacifiCorp communicated on multiple occasions that firm transmission is a requirement. Please refer to the Company's response to XRG Data Request 24; specifically Attachment XRG 24.
- (b) Subpart (b) was withdrawn by XRG in its "Withdrawal of Production Requests Pending Resolution of Summary Judgment Proceedings" dated June 9, 2011.
- (c) Subpart (c) was withdrawn by XRG in its "Withdrawal of Production Requests Pending Resolution of Summary Judgment Proceedings" dated June 9, 2011.

Recordholder: Bruce Griswold
Sponsor: To Be Determined

XRG Data Request 34

Reference Rocky Mountain Power's Responses to XRG Requests No. 5 and No. 16.

- (a) Please explain how the emails between Jim Partouw and John Younie constitute studies sufficient for PacifiCorp C&T to conclude that PacifiCorp had transmission capacity for no more than 23 MW delivered at Brady. Did PacifiCorp's investigation into the feasibility of designating the XRG projects as network resources constitute "separate OASIS requests for service to allow PacifiCorp the opportunity to review and respond according to Section 32 of the OATT?" Why or why not? Reference Transmission Business Practice No. 9.
- (b) At the time of the emails was Mr. Partouw authorized to grant or deny transmission service requests? Was Mr. Partouw listed as a market function employee? Was Mr. Griswold or Mr. Younie list as a market function employee?
- (c) List the information used by Mr. Partouw in his response. Was this information publicly available? If so, where could XRG have located all information in Mr. Partouw's emails? Did Mr. Partouw consult with PacifiCorp Transmission on the requests? Please provide supporting evidence, or state the name of the person who can testify as to the answer.
- (d) Did Mr. Partouw consider future transmission upgrades, such as the Populus-Terminal line contemplated in the FERC Order at 125 FERC ¶ 61,076 (October 21, 2008)?
- (e) Did Mr. Partouw base his investigation into available transmission capacity on an online date proposed for the XRG contracts, or did he rely on the date of his emails, or some other date?

Response to XRG Data Request 34

Please note the correct spelling for "Jim Partouw" is Jim Portouw.

- (a) Emails between Jim Portouw and John Younie do not constitute studies; they contain summaries of evaluation and other information deemed necessary to manage potential transmission alternatives and issues. No, PacifiCorp evaluation of the feasibility of XRG projects did not include separate OASIS requests for Network Resource status. As noted in the emails, there remained a need to request Network Resource status. The process for obtaining Network Resources designation is described in the response to XRG Data Request 26.
- (b) No, Mr. Portouw is an employee of PacifiCorp C&T. Only employees of PacifiCorp Transmission are authorized to grant or deny transmission service

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requests. Mr. Portouw and Mr. Younie are not Market Function employees; Mr. Griswold is a Market Function employee.

- (c) Primary information used in the response was historical knowledge of transmission topology, business practices, existing transmission reservations and APS contractual obligations. The existing topology, business practices and transmission reservations were available on PacifiCorp OASIS. APS contractual obligations would be embedded in FERC filed agreements. Mr. Portouw does not recall any consultation with PacifiCorp Transmission on the requests. Mr. Portouw would be the person to testify to his actions and information used.
- (d) No. Proposed XRG resource is delivered by Bonneville to PacifiCorp at Brady. There were no known facility upgrades from Brady to PacifiCorp system.
- (e) Evaluation of XRG resource at Brady was based on dates in the Term section of the project summary stated in the emails.

Recordholder: Jim Portouw
Sponsor: To Be Determined

XRG Data Request 35

Reference the following assertion in Ken Kaufmann's letter dated April 13, 2010: "Before PacifiCorp Merchant will agree to purchase more than 20 MW of new capacity at Borah or Brady, it must make a formal request to PacifiCorp Transmission and receive confirmation from PacifiCorp Transmission that Transmission is available. PacifiCorp Transmission will charge PacifiCorp Merchant approximately \$15,000 per project to perform a system integration study. At that point, PacifiCorp Merchant will know when and if sufficient capacity will be available at Borah or Brady to accept more than 20 MW of new capacity."

- (a) Please state PacifiCorp's policy regarding the level of inquiry it will conduct during QF contract negotiations to determine whether the Company will have adequate transmission capacity to integrate a QF delivery to commence on a future date. Please provide any internal or publicly available written statement of this policy, if any exists.
- (b) Please identify and provide the correspondence prior to this letter in which PacifiCorp notified XRG of the option to conduct system impact studies to determine transmission availability, including the cost of the study and how XRG could request PacifiCorp complete the studies. If no prior communication exists, please state so.
- (c) Please admit or deny that Transmission Business Practice No. 9 states that requests for network resource designations shall be made through separate OASIS requests "to allow PacifiCorp the opportunity to review and respond according to Section 32 of the OATT."
- (d) Please admit or deny that the Section 32.1 of the OATT states, "After receiving a request for service, the Transmission Provider shall determine on a non-discriminatory basis whether a System Impact Study is needed."
- (e) Did Mr. Kaufmann or PacifiCorp C&T ever lodge an OASIS request for the XRG projects, or otherwise consult with the Transmission Provider regarding the necessity for a system impact study? If not, how did Mr. Kaufmann know that a system impact study would be required?

Response to XRG Data Request 35

- (a) Please refer to the Company's response to XRG Data Request 26.
- (b) Please refer to the Company's response to XRG Data Request 26.
- (c) Admit.
- (d) Admit.
- (e) Please refer to the Company's response to XRG Data Request 26.

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Recordholder: Bruce Griswold
Sponsor: To Be Determined

XRG Data Request 40

Reference Exhibits A-9 and A- 19 to Rocky Mountain Power's First Production Request to XRG.

- (a) On what basis did Mr. Griswold conclude that, "In order to accommodate your request to deliver the full 235 MW, PacifiCorp merchant must request network upgrades from PacifiCorp Transmission, and we understand that such upgrades likely would take four to five years to complete"? Please provide all documents or other evidence supporting Mr. Griswold's statement.
- (b) Did PacifiCorp C&T follow the procedures set out in Section 32 of PacifiCorp Transmission's OATT to reach this conclusion?
- (c) Was Mr. Griswold effectively denying a transmission service request with his statement that transmission capacity was unavailable? Could XRG have contacted PacifiCorp Transmission directly itself regarding PacifiCorp C&T's ability to integrate to the output of the QFs? If so, please provide reference to the OATT sections providing XRG that right.

Response to XRG Data Request 40

- (a) Response was based on PacifiCorp Merchant (Commercial and Trading/C&T) using publicly available information from OASIS to determine available transmission capacity for XRG QF requests at the proposed point of delivery.
- (b) Yes.
- (c) No. No. Transmission service requests for QF resource integration are the responsibility of the merchant function accepting delivery from the resource.

Recordholder: Bruce Griswold
Sponsor: To Be Determined

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XRG Data Request 45

Reference Exhibits A-1 and A-2 of Rocky Mountain Power's First Production Request to XRG.

- (a) Did Rocky Mountain Power ever provide IRP-method rates for the two 78 MW PURPA wind projects proposed?
- (b) If yes, please provide the correspondence providing XRG with the rates.
- (c) If no, please explain why Rocky Mountain Power did not provide such rates, and identify the correspondence where it relayed its decision not to provide IRP method rates to XRG. Please reconcile the response with Rocky Mountain Power's statement in its Initial Comments in Case No. GNR-E-10-04, p. 11, wherein Rocky Mountain Power advocates for use of the IRP method.

Response to XRG Data Request 45

- (a) No.
- (b) Please refer to the Company's response to subpart (a) above.
- (c) Please refer to Attachment XRG 45. PacifiCorp explained in an email dated March 23, 2009 there was only 23MW of available transmission capacity at XRG's point of delivery; therefore, there was only sufficient capacity to do one of XRG's published rate QF requests.

Recordholder: Bruce Griswold
Sponsor: To Be Determined

Attachment XRG 45

Snow, Michael

From: Griswold, Bruce {Mkt Function}
Sent: Monday, March 23, 2009 11:34 AM
To: James T. Carkulis
Cc: Collin Rudeen; Younie, John
Subject: RE: PURPA contract requests

James,

As a follow-up to your QF requests, we have worked through transmission alternatives at Borah for your six proposed QF projects. Based on your proposed delivery point to the Borah substation, we only have import capabilities to our Utah system to serve load from Brady on a firm basis of 23 MW total. Based on your requests, we can accommodate a single 20MW project. For a transaction at Borah, Pac would do redirect of existing Borah reservation to Brady to facilitate a 23MW transaction.

From your project submittals, you have four standard QF projects. We will need to know which of the standard projects you would like to proceed with. We are currently preparing a draft intermittent resource PPA and can provide you the document the end of this week or first of next week. As you are aware, new avoided costs have been approved for the standard QF PPA and are published on the Idaho PUC website.

Let me know if you have questions. I will forward you the draft PPA as soon as we finish it up.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: James T. Carkulis [mailto:mtli@in-tch.com]
Sent: Tuesday, February 17, 2009 5:46 AM
To: Griswold, Bruce {Mkt Function}; Collin Rudeen; Lawrence R. Leib
Cc: Younie, John
Subject: Re: PURPA contract requests

Bruce:

I believe you have the motive force raw data and also compilations and analyses.

I would like to move both the 4 contract front and the 2 contract front forward as per your indication of getting these finished quickly.

We are conizant of the filing by Rocky Mountain Power, but that should interfere with these negotiations.

We anticipate having online dates for these projects by 12-December-2010.

Regards,

James T. Carkulis
Confidential & Proprietary

Successfully Merging Free Market Principles with Societal Expectations

Exergy Development Group, LLC

[p] 208.336.9793

[f] 208.336.9431

[m] 406.459.3013

[e] mtli@in-tch.com

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----- Original Message -----

From: Griswold, Bruce {Mkt Function}

To: Collin Rudeen ; James Carkulis ; Lawrence R. Leib

Cc: Younie, John

Sent: Friday, January 23, 2009 3:04 PM

Subject: RE: PURPA contract requests

here is the call in information - the time is 9AM Mountain and 8AM Pacific.

Bruce Griswold from PacifiCorp has invited you to a Voice Conference (Mtg ID 121212) on JAN, 28 2009 at 8:00 AM America/Los_Angeles. If provided, use the following password: 121212

To attend a Voice Conference: Call **503-813-5600** (toll free #800-503-3360), follow the instructions provided and enter Mtg ID **121212** when prompted.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen

Sent: Friday, January 23, 2009 12:39 PM

To: Griswold, Bruce {Mkt Function}

Cc: Younie, John; Peter Richardson; James Carkulis; Lawrence R. Leib

Subject: Re: PURPA contract requests

Bruce,

Does 9:00, MST on Wednesday next week work for you guys? Pete will not be on the call. James and maybe Larry Leib will be on the call, in addition to myself.

Regards,
Collin

On Thu, Jan 22, 2009 at 10:18 AM, Griswold, Bruce {Mkt Function} <Bruce.Griswold@pacificcorp.com> wrote:
Collin

Thanks for the documents. We will review and schedule a time to discuss all projects next week. Purpose of the call would be to clarify the submittals, schedules, and deliverables. Who should we schedule the call with? We would tentative look at Wednesday for a call.

If Pete will on the call, we will schedule to have our attorney also. Thanks.

Bruce Griswold
PacifiCorp C&T
503-813-5218 Office
503-702-1445 Cell
503-813-6260 Fax

From: collin.rudeen@gmail.com [mailto:collin.rudeen@gmail.com] **On Behalf Of** Collin Rudeen
Sent: Thursday, January 22, 2009 7:51 AM
To: Griswold, Bruce {Mkt Function}; Younie, John
Cc: Peter Richardson; James Carkulis
Subject: PURPA contract requests

John and Bruce,

Please see the three attached files, sent at Peter Richardson's request.

Regards,

--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
Boise, ID 83702
ph: 208.336.9793
crudeen@exergydevelopment.com

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--

Collin Rudeen
Lead Project Engineer
Exergy Technology Concepts
802 W Bannock, ste 1200
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ph: 208.336.9793
crudeen@exergydevelopment.com

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XRG Data Request 47

Please admit or deny that Rocky Mountain Power requested that the cost of the Populus to Terminal project be placed in rate base in PAC-E-10-07. Please explain the impact of completion of this project on Rocky Mountain Power's ability to accept delivery of the 4 XRG projects referred to in the Complaint in this case at Borah or Brady.

Response to XRG Data Request 47

Admit.

The question does not state where the power from the 4 XRG projects is to be delivered. The Populus to Terminal project increased southbound capability across Path C into Utah with the upgrades adding 650 MW of capacity southbound. All the additional Path C capacity, including the incremental 650 MW of capability is currently subscribed to network service requirements and is not available for firm purchase on PacifiCorp's OASIS. The upgrades did not affect the availability of capacity from Brady or Borah to Path C other than providing scheduling flexibility from Brady into Utah and from Borah into Populus. Per PacifiCorp's OASIS website, there is currently no available transmission capacity from Brady into Utah or from Borah into Utah. There is posted capability from Borah to Populus.

Recordholder: Kenneth Houston
Sponsor: To Be Determined