

POWER PURCHASE AGREEMENT

BETWEEN

LOWER VALLEY ENERGY, INC.

[three non-fueled, non-levelized, non-MAG Qualifying Facilities located in PacifiCorp Control Area interconnected to non-PacifiCorp system in Wyoming delivering power to PacifiCorp in Idaho—each 10aMW/Month or less]

AND

PACIFICORP

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT ("**Agreement**"), entered into this 17th day of Jan, 2014, is between Lower Valley Energy, Inc., a Wyoming Corporation (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 owns, operates and maintains three run of river hydroelectric generating facilities for the generation of electric power, two located on Swift Creek, in or near the town of Afton, Lincoln County, Wyoming and one located on the existing culinary water system for the town of Afton, Lincoln County, Wyoming. The upriver Swift Creek plant was completed in May 2009 and has a Facility Capacity Rating of 940-kilowatts (kW) (the "**Upper Facility**"). The downriver Swift Creek plant was completed in October 2009 and has a Facility Capacity Rating of 535 kW (the "**Lower Facility**"). The third plant has a Facility Capacity Rating of 225 kW (the "**Culinary Facility**"); and

B. The Parties desire to enter into this Agreement to replace in its entirety the Second Revised and Restated Power Purchase Agreement dated May 6, 2011 (the "**PPA**"), which terminates on September 1, 2014; and

C. Seller intends to continue to deliver Net Output under this Agreement; and

D. Seller intends to continue to operate Upper Facility, Lower Facility, and Culinary Facility – each a separate Qualifying Facility – as a single generating facility (collectively the "**Facility**"), for purposes of this PPA; and

E. Seller estimates that the average annual Net Output to be delivered by the Facility to PacifiCorp is 6,007,666 kilowatt-hours (kWh) pursuant to the monthly Energy Delivery Schedule in **Exhibit D** hereto, which amount of energy PacifiCorp will include in its resource planning; and

F. Seller shall (choose one) sell ^{BPA (see) [initials]} all Net Output to PacifiCorp and purchase its full electric requirements from PacifiCorp sell Net Output surplus to its needs at the Facility site to PacifiCorp and purchase partial electric requirements service from PacifiCorp, in accordance with the terms and conditions of this Agreement; and

G. Seller intends to transmit Net Output from the Facility to PacifiCorp via transmission facilities operated by a third party, 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.

H. This Agreement is a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol.

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 “**Adjusted Scheduled Monthly Energy Delivery**” shall have the meaning set forth in Section 4.3.

1.2 “**Agreement**” means this Power Purchase Agreement.

1.3 “**As-built Supplement**” shall mean the supplement to **Exhibit A** previously provided by Seller and describing the Facility as actually built.

1.4 “**Billing Period**” means the time period between the reading of power purchase meters at the Facility and, for this Agreement, shall coincide with calendar months.

1.5 “**Capacity Factor**” means, for any given period of time, the Net Output divided by the product of Facility Capacity Rating and the total hours in the given period of time.

1.6 “**Commission**” means the Idaho Public Utilities Commission.

1.7 “**Conforming Energy**” means all Net Energy delivered to the Point of Delivery except Non-Conforming Energy.

1.8 “**Conforming Energy 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 Effective 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 “**Effective Date**” means September 2, 2014.

1.11 “**Energy Delivery Schedule**” shall have the meaning set forth in Section 4.2 of this Agreement.

1.12 “**Expiration Date**” shall have the meaning set forth in Section 2.2 of this Agreement.

1.13 “**Facility**” means all of Seller’s Upper Facility, Lower Facility, and Culinary Facility, unless otherwise noted, including the Seller’s Interconnection Facilities, as described in the Recitals, **Exhibit A**, and **Exhibit B**. “Facility_(upper)”, “Facility_(lower)”, and “Facility_(culinary)” refer to the Upper Facility, Lower Facility, and Culinary Facility, individually. The term “Facility” without any such suffix refers to the entire Facility unless the context requires otherwise. Facility_(upper), Facility_(lower), and Facility_(culinary) are described separately in **Exhibit A**.

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

1.15 “**Force Majeure**” has the meaning set forth in Section 13.1.

1.16 “**Forced Outage**” means an outage that requires removal of one or more generating units 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.

1.17 “**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 a non-PacifiCorp transmission entity(s).

1.18 “**Governmental Authority**” means any supranational, federal, state or other political subdivision thereof, having jurisdiction over Seller, PacifiCorp or this Agreement, including any municipality, township or county, and any entity or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any corporation or other entity owned or controlled by any of the foregoing.

1.19 “**Inadvertent Energy**” means energy delivered to the Point of Interconnection_(x) (1) in excess of the Maximum Monthly Purchase Obligation; or (2) at an average hourly rate exceeding the Maximum Facility Delivery Rate_(x). Inadvertent Energy is not included in Net Output.

1.20 “**Index Price**”, for each day, shall mean the weighted average of the average Peak and Off-Peak firm energy market prices, as published in the *Intercontinental Exchange (ICE) Day Ahead Power Price Report* for the Palo Verde Hub. For Sunday and NERC holidays, the 24-Hour Index Price shall be used, unless ICE shall publish a Firm On-Peak and Firm Off-Peak Price for such days for Palo Verde, in which event such indices shall be utilized for such days. If the 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.

1.21 “**Interconnected Utility**” means Lower Valley Energy, Inc., the operator of the electric utility system at the Points of Interconnection.

1.22 “**Interconnection Facilities**” means all the facilities and ancillary equipment used to interconnect the Facility to the Interconnected Utility, including electrical transmission lines, upgrades, transformers, and associated equipment, substations, relay and switching equipment, and safety equipment.

1.23 “**Licensed Professional Engineer**” means a person acceptable to PacifiCorp in its reasonable judgment who is licensed to practice engineering in the state of Wyoming, 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.

1.24 “**Maintenance Outage**” means any outage of one or more generating units 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 generating unit(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.

1.25 “**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.

1.26 “**Maximum Curtailed Facility Delivery Rate**” or “**MCFDR**” means the maximum instantaneous rate (kW) at which the Facility is capable of delivering Net Output at the Point(s) of Interconnection during a Qualifying Curtailment. Where a Qualifying Curtailment applies indistinguishably to both the “Upper and Lower” Facility and to the “Culinary” Facility, the $MCFDR_{(x)}$ shall equal the $MCFDR_{(all\ three)}$ * $(MFDR_{(x)}/MFDR_{(all\ three)})$.

1.27 “**Maximum Facility Delivery Rate**” or “**MFDR**” means the maximum instantaneous rate (kW) at which the Facility is capable of delivering Net Output at the Point(s) of Interconnection, as specified in Exhibit A, and in compliance with the Facility’s generation interconnection agreement, if applicable.

1.28 “**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 29632, the Maximum Monthly Purchase Obligation for the Facility for a given month, in kWh, shall equal 10,000 kW multiplied by the total number of hours in that month.

1.29 “**Motive Force Plan**” shall have the meaning set forth in Section 7 of this Agreement.

1.30 “**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, when operated consistent with the manufacturer’s recommended power factor and operating parameters, as set forth in the As-built Supplement previously furnished by Seller.

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

1.32 “**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 Points of Interconnection, less any station use not provided by the Facility. Net Output does not include Inadvertent Energy.

1.33 “**Non-Conforming Energy**” means for any Billing Period: (1) that portion of Net Energy delivered to the Point of Delivery in excess of 110% of the Scheduled Monthly Energy Delivery for that Billing Period delivered subsequently to that initial 110%; or (2) all Net Energy delivered to the Point of Delivery when Net Energy delivered is less than 90% of the Scheduled Monthly Energy Delivery for that Billing Period.

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

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

1.36 “**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.

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

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

1.39 “**Point of Delivery**” means PacifiCorp’s 161 kV busbar at the Goshen Substation, Idaho the point of interconnection between Bonneville Power Administration’s system and PacifiCorp’s system where PacifiCorp has agreed to receive Seller’s Net Output.

1.40 “**Point of Interconnection_(lower)**” means the high voltage side of Seller’s step-up transformer at the point of interconnection between Seller’s Facility_(lower) and the Interconnected Utility’s system.

1.41 “**Point of Interconnection_(culinary)**” means the high voltage side of Seller’s step-up transformer at the point of interconnection between Seller’s Facility_(culinary) and the Interconnected Utility’s system.

1.42 “**Point of Interconnection_(upper)**” means the high voltage side of Seller’s step-up transformer at the point of interconnection between Seller’s Facility_(upper) and the Interconnected Utility’s system.

1.43 “**Points of Interconnection**” means, collectively, the Point of Interconnection_(lower), Point of Interconnection_(upper), and Point of Interconnection_(culinary).

1.44 “**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.

1.45 “**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.

1.46 “**Qualifying Curtailment**” shall have the meaning set forth in Section 4.3.

1.47 “**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.

1.48 “**Replacement Period**”, “**Net Replacement Power Costs**”, “**Replacement Price**” and “**Replacement Volume**” shall have the meanings set forth in Section 10.4 of this Agreement;

1.49 “**Required Facility Documents**” means all material licenses, permits, authorizations, and agreements necessary for construction, operation, and maintenance of the Facility, including without limitation those set forth in **Exhibit C**.

1.50 “**Requirements of Law**” means any applicable and mandatory (but not merely advisory) federal, state and local law, statute, regulation, rule, code or ordinance enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority or regulatory body (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

1.51 “**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.

1.52 “**Subsequent Energy Delivery Schedule**” shall have the meaning set forth in Section 4.1.

1.53 “**Tariff**” means the PacifiCorp FERC Electric Tariff Seventh Revised Volume No.11 Pro Forma Open Access Transmission Tariff, as revised from time to time.

1.54 “**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.

1.55 “**Transmitting Entity**” means the Bonneville Power Administration, the (non-PacifiCorp) operator(s) of the transmission system(s) between the Points of Interconnection and the Point of Delivery, and any successors in interest.

SECTION 2: TERM, COMMERCIAL OPERATION DATE

2.1 This Agreement shall become effective upon the Effective Date; *provided*, however, this Agreement shall in no event 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.

2.2 Unless earlier terminated as provided herein, this Agreement shall remain in effect until September 30, 2016 (“**Expiration Date**”).

2.3 Seller has provided PacifiCorp with a copy of an executed Transmission Agreement(s), whose terms include: (1) reserved capacity equal to or greater than the Maximum Facility Delivery Rate of Seller’s combined Facility, and (2) a termination date (including any rollover rights) equal to or greater than the Expiration Date of this Agreement – and is otherwise consistent with this Agreement.

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 Wyoming corporation duly organized and validly existing under the laws of Wyoming.

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 three QFs. 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 All information about the Facility set forth in Exhibit A and Exhibit B has been verified by Seller and is true and accurate.

3.2.8 Seller is not in default under the Transmission Agreement(s), applicable interconnection agreements or any other agreement related to this Agreement, and is current on all of its financial obligations under such agreements.

3.2.9 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.

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

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

3.2.12 In entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of PacifiCorp in connection with the transactions contemplated by this Agreement.

3.2.13 Seller owns, and will continue to own for the term of this Agreement, all required rights, title and interests 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. Any Seller leases, licenses or other grants of rights in real property required for the operation of the Facility have terms through the Expiration Date of this Agreement and Seller is not in material breach of any terms of such leases or other rights in real property for the Facility or Premise.

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 ENERGY AND CAPACITY

4.1 Delivery and Acceptance of Net Output. Unless otherwise provided herein, PacifiCorp will purchase and Seller will sell all of the Net Output from the Facility. Seller shall not sell any Net Output from the Facility to any party other than PacifiCorp.

4.2 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:

4.2.1 Culinary Scheduled Monthly Energy Delivery. The Scheduled Monthly Energy Delivery (and related adjustments and calculations) for the Culinary Facility shall be separate from the Scheduled Monthly Energy Delivery for the combined Upper Facility and Lower Facility.

<u>Month</u>	<u>Culinary Facility Energy Delivery</u> <u>(SMED_{culinary}) kWh</u>
January	82,092
February	65,859
March	63,006
April	60,720
May	115,251
June	148,214
July	163,245
August	138,978
September	111,450
October	108,544
November	98,652
December	93,545

4.2.2 Upper and Lower Scheduled Monthly Energy Delivery. The Scheduled Monthly Energy Delivery for the combined Upper Facility and Lower Facility is as follows:

<u>Month</u>	<u>Upper Facility</u> <u>Energy Delivery (kWh)</u>	<u>Lower Facility Energy</u> <u>Delivery (kWh)</u>	<u>Facility Energy Delivery</u> <u>(SMED_{upper and lower}) kWh</u>
January	127,588	54,235	181,823
February	102,451	47,852	150,303
March	115,425	59,825	175,250
April	184,750	86,520	271,270
May	345,845	187,699	533,544
June	546,866	301,939	848,805
July	538,905	291,022	829,927
August	412,450	145,365	557,815
September	274,580	113,480	388,060
October	256,245	85,623	341,868
November	178,562	76,799	255,361
December	155,632	68,452	224,084

4.2.3 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 six months of scheduled energy estimates at all times. Seller shall provide Subsequent Energy Delivery Schedules no later than 5:00 PM MPT 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.

4.2.4 Beginning with the end of the third month of operation, Seller may no longer revise the immediate next three months of previously provided Energy Delivery Schedule. Seller may, by written notice given to PacifiCorp no later than 5:00 PM of the 5th day following the end of the previous month, revise all other previously provided Energy Delivery Schedules for periods beyond three months. Failure to provide timely written notice of changed amounts will be deemed to be an election of no change.

4.3 Adjustment of Energy Delivery Schedule. If PacifiCorp is excused from accepting all or part of Seller’s Net Output due to the occurrence of circumstances specified in Section 6.2 and, or if Seller is excused from delivery due to the occurrence of circumstances specified in Section 6.7.3, or due to a combination thereof (“**Qualifying Curtailment**”) the Scheduled Monthly Energy Delivery for the Facility(ies) subject to such Qualifying Curtailment (Scheduled Monthly Energy Delivery_(upper and lower) or Scheduled Monthly Energy Delivery_(culinary) or both) will be adjusted, *pro rata* (“**Adjusted Scheduled Monthly Energy Delivery**”). The Adjusted Scheduled Monthly Energy Delivery shall be calculated as follows:

$$SMED(adj) = SMED_{(x)} * \left(1 - \sum_{i=1}^n \left(\frac{Hc_i}{Ht} * \frac{DRm - DRc_i}{DRm} \right) \right)$$

Where:

- $SMED_{(x)}$ = Scheduled Monthly Energy Delivery for the month in which the curtailment occurs, where “(x)” connotes “Upper and Lower Facility” or “Culinary Facility” or “both”
- $SMED(adj)$ = Adjusted Scheduled Monthly Energy Delivery_(x) for the month in which curtailment occurs
- Hc_i = total hours of the Qualifying Curtailment in the month subject of this calculation
- Ht = total hours in the month in which curtailment occurs
- DRc_i = the Maximum Curtailed Facility Delivery Rate_(x)
- DRm = the Maximum Facility Delivery Rate_(x)
- i = a Qualifying Curtailment affecting Facility_(x)
- n = the number of Qualifying curtailments in the month affecting Facility_(x)

x = the Facility subject to the Qualifying Curtailment: either “Upper and Lower” or “Culinary”

Where Qualifying Curtailments overlap, each distinct period of overlap shall be calculated as a separate Qualifying Curtailment such that no hour within a month may figure into more than one Qualifying Curtailment.

4.4 Termination for Non-availability. Unless excused by an event of Force Majeure, Seller’s failure to deliver any Net Energy to the Point of Delivery for a continuous period of three months shall constitute an event of default.

SECTION 5: PURCHASE PRICES

5.1 Energy Purchase Price. Except as provided in Section 5.3, PacifiCorp will pay Seller non-levelized, Conforming Energy or Non-Conforming Energy Purchase Prices for capacity and energy calculated using separately applicable rates for “Upper and Lower” and “Culinary” Facility and adjusted for seasonality and On-Peak/Off-Peak Hours using the following formulae, in accordance with Commission Order 30480 and Errata to Order 30480:

Conforming Energy Purchase Price = $AR_{ce} * MPM$

Non-Conforming Energy Purchase Price = An amount equal to the lower of [$AR_{ce} * MPM$] or PV-85

Where:

AR_{ce} = the Conforming Energy Annual Rate for the year of the Net Output. The applicable rates for Net Output from the Upper Facility, Lower Facility and Culinary Facility are in Table 1 below;

MPM = the 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.

PV-85 = 85% of the monthly weighted average of the daily Index Price.

Example calculations are provided in Exhibit G.

Table 1- Conforming Energy Annual Rates for Upper Facility, Lower Facility and Culinary Facility

Year	Conforming Energy Annual Rate, Upper, Lower, and Culinary (AR_{ce}) \$/MWh
2014	55.21
2015	56.89
2016	62.17

Table 2: Monthly On-Peak/Off-Peak Multipliers

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 the Billing Period in each Contract Year:

5.2.1 If Net Energy delivered to the Point of Delivery is between 90% and 110% of the Scheduled Monthly Energy Delivery, then:

Payment = Conforming Energy (kWh) times Conforming Energy Purchase Price (\$/MWh) divided by 1000.

5.2.2 If Net Energy delivered to the Point of Delivery is less than 90% of the Scheduled Monthly Energy Delivery, then:

Payment = Non-Conforming Energy (kWh) times Non-Conforming Energy Purchase Price (\$/MWh) divided by 1000.

5.2.3 If Net Energy delivered to the Point of Delivery is greater than 110% of the Scheduled Monthly Energy Delivery, then:

Payment = Conforming Energy (kWh) times Conforming Energy Purchase Price (\$/MWh) divided by 1000 plus Non-Conforming (kWh) times Non-Conforming Energy Purchase Price (\$/MWh) divided by 1000.

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 has previously provided the As-Built Supplement, which is incorporated into this Agreement by reference. Seller shall operate and maintain the Facility in a safe manner in accordance with this Agreement, the Facility's generation interconnection agreement, if applicable, Transmission Agreement(s), Prudent Electrical Practices and in accordance with the

Requirements of Law and the National Electric Safety Code as such laws and code may be amended from time to time. 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 PacifiCorp shall not be obligated to purchase, receive, pay for, or pay any damages associated with Net Output (and from receiving Inadvertent Energy) if such Net Output (or Inadvertent Energy) is not delivered to the Point of Delivery due to any of the following: (a) the interconnections between the Facility and the Transmitting Entity's system are disconnected, suspended or interrupted, in whole or in part, the Transmission Agreement(s) are terminated, suspended or interrupted, or the Transmitting Entity curtails services to the Point of Delivery, (b) PacifiCorp Transmission directs a general curtailment, reduction, or redispatch of generation in the area (which would include the Net Output) for any reason (even if such curtailment or redispatch directive is carried out by PacifiCorp, which may fulfill such directive by acting in its sole discretion) or if PacifiCorp curtails or otherwise reduces the Net Output in order to meet its obligations to the PacifiCorp Transmission to operate within system limitations, or (c) an event of Force Majeure prevents either Party from delivering or receiving Net Output

6.3 Seller shall reasonably determine the MWh amount of Net Output curtailed pursuant to Section 6.2 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 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 and to perform and confirm the calculations described in Section 4.3.

6.3.1 Upon termination of each curtailment, each Party having knowledge of the curtailment shall transmit to the other Party, within ten (10) business days, a written statement documenting the cause of curtailment, the time curtailment commenced, the amount of curtailment during each hour of the curtailment period, and the time curtailment ended.

6.3.2 At the end of each Billing Period, Seller shall calculate the curtailed energy, including the Maximum Curtailed Facility Delivery Rate, for each curtailment during that Billing Period and transmit a summary statement of such calculation to PacifiCorp prior to the end of the next month. Seller shall attest to the accuracy of its calculation of curtailed energy.

6.4 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 or network service provider and that interaction between PacifiCorp and PacifiCorp Transmission are at arms' length pursuant to the Tariff and FERC Order No. 888 and related regulation.

6.5 At least ninety (90) days before the first day of each calendar quarter, Seller shall provide PacifiCorp with written notice of the Facility's planned Net Output generation schedule ("Schedule") for that calendar quarter. At least ten (10) days before the beginning of each month, Seller shall notify PacifiCorp in writing of any changes or updates to the Schedule for that month. At or before 0730 MPT on the day before a given day of delivery, Seller shall notify PacifiCorp's generation coordinator desk, by telephoning 503-813-6090 or sending a facsimile to 503-813-6265, of any changes to the Schedule for the delivery day. Seller shall notify PacifiCorp's generation coordinator desk no later than two hours following the commencement of an event of Force Majeure, unscheduled outage or unscheduled derate, of the expected duration of any such event. The Schedule made pursuant to this Section 6.5 is independent of and does not alter the Energy Delivery Schedule.

6.6 Under no circumstances will the Seller deliver Net Output and/or Inadvertent Energy from the Facility to the Point of Delivery in an amount that exceeds the Maximum Facility Delivery Rate, except as provided in Addendum W. Seller's failure to limit deliveries to the Maximum Facility Delivery Rate shall be a material breach of this Agreement.

6.7 Outages.

6.7.1 Except as otherwise provided herein, Seller shall not schedule a Planned Outage during any portion of the months of December, January, July, and August, except to the extent a Planned Outage is reasonably required to avoid an adverse impact on the Facility. Seller shall, in accordance with 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.

6.7.2 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) business days before the outage begins (or such shorter period to which PacifiCorp may reasonably consent in light of then existing 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 6.7.2 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.

6.7.3 Seller shall promptly provide to PacifiCorp an oral report, via telephone to a number specified by PacifiCorp, of any Forced Outage of the Facility. If the Forced Outage is not caused by neglect, disrepair or lack of adequate preventative maintenance, Seller may temporarily suspend deliveries of Net Output after providing the report. 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.

6.7.4 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.

6.8 Seller shall include 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 prepared in accordance with **Exhibit D**.

6.9 Upon reasonable prior notice and subject to the prudent safety requirements of Seller, and Requirements of Law relating to workplace health and safety, Seller shall provide PacifiCorp and its authorized agents, employees and inspectors ("**PacifiCorp Representatives**") with reasonable access to the Facility: (a) for the purpose of reading or testing metering equipment, (b) as necessary to witness any acceptance tests, and (c) for other reasonable purposes at the reasonable request of PacifiCorp.

SECTION 7: MOTIVE FORCE

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp an engineering report for Seller's Facility demonstrating to PacifiCorp's reasonable satisfaction: (1) the feasibility that the combined Net Energy delivery of the Upper Facility the Lower Facility and the Culinary Facility will equal or exceed 6,007,666 kWh in each full calendar year for the full term of this Agreement; and (2) the likelihood that the Facility, under average design conditions, will generate at no more than 10 aMW in any calendar month ("**Motive Force Plan**") acceptable to PacifiCorp in its reasonable discretion and attached hereto as **Exhibit F-1**, together with a

certification from a Licensed Professional Engineer attached hereto as **Exhibit F-2**, certifying to PacifiCorp that the Facility can reasonably be expected to perform as predicted in the Motive Force Plan for the duration of this Agreement.

SECTION 8: METERING AT THE POINT OF INTERCONNECTION

8.1 Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in **Exhibit B**. Seller shall provide to PacifiCorp metered Facility Net Output in hourly increments, and any other energy measurements required to administer this Agreement. If the Transmitting Entity(s) requires Seller to telemeter data, PacifiCorp shall be entitled to receive the same data Seller provides to the Transmitting Entity, if such data is useful to PacifiCorp's administration of this Agreement. Seller's metered output shall be adjusted to account for electrical losses, if any, between the point of metering_(x) and the Point of Interconnection_(x) ("**Adjusted Metered Output**"). The loss adjustment shall be 2% of the kWh energy production recorded on the Facility output meter until actually measured and confirmed in letter agreement between the Parties. Subject to other provisions applicable to Net Output in this Agreement (e.g., disallowance of Inadvertent Energy), PacifiCorp shall subtract Seller's station service load from Seller's adjusted metered output to determine Net Output.

8.2 Seller shall pay for the installation, testing, and maintenance of any metering required by Section 8.1, and shall provide reasonable access to such meters. PacifiCorp shall have reasonable access to inspection, testing, repair and replacement of the metering equipment. If any of the inspections or tests discloses a measurement 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. 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 following the repair of the meter, or during the shortest reasonable period.

SECTION 9: BILLINGS, COMPUTATIONS AND PAYMENTS

9.1 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.

9.2 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.

SECTION 10: DEFAULTS AND REMEDIES

10.1 The following events shall constitute defaults under this Agreement:

10.1.1 Seller's failure to make a payment when due under this Agreement, or maintain insurance in conformance with the requirements of Section 12 of this Agreement, if the failure is not cured within ten (10) days after PacifiCorp gives Seller a notice of the default.

10.1.2 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 by the non-defaulting Party.

10.1.3 Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Facility's generation interconnection agreements or Transmission Agreement(s)) within the time allowed for a cure under such agreement or instrument.

10.1.4 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.

10.1.5 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.

10.1.6 A Party otherwise fails to perform any material obligation 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.

10.2 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 10 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.

10.3 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.

10.4 If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp for the energy and associated capacity that Seller was scheduled to provide for a period of twelve (12) months ("**Replacement Period**") from the date of termination plus the estimated administrative cost to acquire the replacement power ("**Net Replacement Power Costs**"). Net Replacement Power Costs equals the sum of (1) the Replacement Price for Facility_(upper, lower and culinary) times the Replacement Volume for Facility_(upper, lower and culinary) for each day of the Replacement Period; and (2) the estimated administrative cost to the utility to acquire replacement power.

Where:

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

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

10.5 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.

10.6 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 11: INDEMNIFICATION

11.1 Indemnities.

11.1.1 **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.

11.1.2 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.

11.2 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.

11.3 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 12: LIABILITY AND INSURANCE

12.1 Without limiting any liabilities or any other obligations of Seller under this Agreement, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-/VII" by the A.M. Best Company the insurance coverage specified below:

12.1.1 Workers' Compensation. Seller shall comply with all applicable Requirements of Law.

12.1.2 Employers' Liability. Seller shall maintain employers' liability insurance with minimum limits covering bodily injury for: \$500,000 – each accident, \$500,000 by disease – each employee, and \$500,000 by disease – policy limit.

12.1.3 Commercial General Liability. Seller shall maintain insurance to include premises and operations, contractual liability, with a minimum single limit of \$1,000,000 each occurrence 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.

12.1.4 Business Automobile Liability. Seller shall secure and continuously carry business automobile liability insurance with a minimum single limit of \$1,000,000 each accident covering bodily injury and property damage with respect to Seller's vehicles whether owned, hired or non-owned.

12.1.5 Umbrella/Excess Liability. Seller shall maintain umbrella or excess liability insurance on an occurrence and following form basis with a minimum limits as follows:

- (a) Facility Capacity Rating under 200 KW - \$1,000,000
- (b) Facility Capacity Rating at or above 200 KW - \$5,000,000

12.1.6 Property Insurance. Seller shall maintain property insurance covering equipment and structures in an amount at least equal to the full replacement value for "all risks" of physical loss or damage, including coverage for earth movement, flood, boiler and machinery, and business interruption. The policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. Property insurance will be maintained in accordance with terms available in the insurance market for similar facilities.

12.2 Except for workers' compensation and property insurance, the policies required herein shall include provisions or endorsements as follows:

12.2.1 naming PacifiCorp, parent, divisions, officers, directors and employees as additional insureds;

12.2.2 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

12.2.3 cross liability coverage or severability of interest.

12.2.4 Unless prohibited by applicable Requirements of Law, all required insurance policies shall contain provisions that the insurer will have no right of recovery or subrogation against PacifiCorp.

12.3 Prior to connection of the Facility to PacifiCorp's electric system, or another utility's electric system if delivery to PacifiCorp is to be accomplished by wheeling, Seller shall secure and continuously carry insurance in compliance with the requirements of this Section. Seller shall provide PacifiCorp insurance certificate(s) confirming Seller's compliance with the insurance requirements hereunder. Insurance certificate confirming compliance shall be provided to PacifiCorp by Seller at least annually and each time a new insurance policy is issued or becomes effective.

12.4 Commercial General Liability coverage written on a “claims-made” basis, if any, shall be specifically identified on the certificate, and Seller shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such other length of time necessary to cover liabilities arising out of the activities under this Agreement.

12.5 PacifiCorp may review this schedule of insurance as often as once every two (2) years. PacifiCorp may in its discretion require Seller to make reasonable changes to the policies and coverages described in this Exhibit 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 PacifiCorp's review takes place.

SECTION 13: FORCE MAJEURE

13.1 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:

13.1.1 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;

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

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

13.1.4 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 thereof, 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.

13.2 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.

13.3 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.

13.4 PacifiCorp may terminate the Agreement if Seller fails to remedy Seller's inability to perform, due to an event of Force Majeure, within six (6) months after the occurrence of the event of Force Majeure.

SECTION 14: 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 15: 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 16: PARTIAL INVALIDITY

It is not the intention of the Parties to violate any Requirements of Law 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 Requirements of 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 applicable Requirements of Law and the intent of the Parties to this Agreement.

SECTION 17: 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 18: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

This Agreement is subject to the jurisdiction of those Governmental Authorities having control over either Party or this Agreement. PacifiCorp's compliance with the terms of this Agreement is conditioned on Seller maintaining 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 19: 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 20: ENTIRE AGREEMENT

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.

SECTION 21: JURY TRIAL WAIVER

EACH PARTY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO EACH OF THE PARTIES FOR ENTERING HEREINTO. EACH PARTY HEREBY WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, OR ANY MATTER ARISING HEREUNDER OR THEREUNDER, WITH ANY PROCEEDING IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED.

SECTION 22: NOTICES

22.1 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 E-mail: SmallQF@PacifiCorp.com Phone: (503) 813 - 5380 Facsimile: (503) 813 - 6291 Duns: 00-790-9013 Federal Tax ID Number: 93-0246090	Lower Valley Energy, Inc. PO Box 188 Afton, Wyoming 83110 Attention Jim Webb, CEO Phone (307) 885-3175 Facsimile: (307) 885-5787
All Invoices:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	Attention GayLynn Turner Phone (307) 885-6136 Facsimile: (307) 885-5787
Scheduling:	Attn: Resource Planning, Suite 600 Phone: (503) 813 - 6090 Facsimile: (503) 813 - 6265	Attention Rick Knori Phone: (307) 739-6038 Facsimile: (307) 739-1610
Payments:	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	Attention GayLynn Turner Phone (307) 885-6136 Facsimile: (307) 885-5787
Wire Transfer:	Bank One N.A. To be provided in separate letter from PacifiCorp to Seller	To be provided in separate letter from Lower Valley Energy to Buyer
Credit and Collections:	Attn: Credit Manager, Suite 700 Phone: (503) 813 - 5684 Facsimile: (503) 813-5609	Attention GayLynn Turner Phone (307) 885-6136 Facsimile: (307) 885-5787
With Additional Notices of an Event of Default or Potential Event of Default to:	Attn: PacifiCorp General Counsel Phone: (503) 813-5029 Facsimile: (503) 813-6761	James Webb, CEO Lower Valley Energy, Inc. Phone (307) 885-3175 Facsimile: (307) 885-5787

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

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

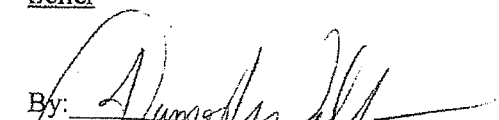
PacifiCorp

By:  _____

Name: Bruce Griswold
Title: Director Short Term Origination
and QF Contracts

BWS 6-16-2014

Seller

By:  _____

Name: James R. Webb
Title: President/ CEO

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

Seller's Facility consists of three QFs, designated Facility_(lower), Facility_(upper), and Facility_(culinary) in this Agreement. Together, the Facility is described as:

Facility Capacity Rating_(upper): 940 kW

Facility Capacity Rating_(lower): 535 kW

Facility Capacity Rating_(culinary): 225 kW

Facility Capacity Rating: 1,700 kW

Identify the Maximum Facility Delivery Rate:

Maximum Facility Delivery Rate_(upper): 940 kW

Maximum Facility Delivery Rate_(lower): 597 kW

Maximum Facility Delivery Rate_(culinary): 261 kW

Maximum Facility Delivery Rate: 1,798 kW

EXHIBIT A – Lower
DESCRIPTION OF SELLER'S FACILITY_(LOWER)
[Seller to Complete]

Seller's Facility consists of one generator manufactured by Emerson Motor Company. More specifically, each generator at the Facility is described as:

Type (synchronous or inductive): S1 Induction Generator

Nameplate Part No.: 370780-000

Number of Phases: 3

Rated Output (kW): 597

Rated Output (kVA): 746

Rated Voltage (line to line): 480

Rated Current (A): Stator: 935 A; Rotor: Induction 935 A

Maximum kW Output ("Maximum Facility Delivery Rate_(lower)"): 597 kW

Maximum kVA Output: 746 kVA

Minimum kW Output: 0 kW

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

Facility Capacity Rating: 535 kW at Hz 60 A 935

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: Station service loads are metered and connected on a separate service and meter from the 12.47 kv distribution system through a 120/240 single phase service. Station Service loads are estimated to be 12,000 KWH per year

Location of the Facility: The Facility is located in Lincoln County, W Wyoming. The location is more particularly described as follows:

The project is located on Swift Creek, in Lincoln County, Wyoming, partially within the Bridger-Teton National Forest at approximately 42°43' 42.3531" N and 110°55' 00.70858" W.

Power factor requirements:

Rated Power Factor (PF) or reactive load (kVAR): PF = .81

EXHIBIT A – Upper
DESCRIPTION OF SELLER'S FACILITY_(UPPER)
[Seller to Complete]

Seller's Facility_(upper) consists of one generator manufactured by Marelli Motori. More specifically, each generator at the Facility_(upper) is described as:

Type (synchronous or inductive): S1 Induction Generator

Model: C4G500 LC 10

Number of Phases: 3

Rated Output (kW): 940

Rated Output (kVA):

Rated Voltage (line to line):

Rated Current (A): Stator: 1131 A; Rotor: Induction 1131 A

Maximum kW Output ("Maximum Facility Delivery Rate_(upper)"): 940 kW

Maximum kVA Output: 986 kVA

Minimum kW Output: 0 kW

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

Facility Capacity Rating_(upper): 940 kW at Hz 60 A
1360

Identify the Maximum Facility Delivery Rate_(upper) and describe any differences between that output and the Facility Capacity Rating_(upper):

Station service requirements, and other loads served by the Facility_(upper), if any, are described as follows: Station service loads are metered and connected on a separate service and meter from the 12.47 kv distribution system through a 120/240 single phase service.

Location of the Facility_(upper): The Facility_(upper) is located in Lincoln County, W Wyoming. The location is more particularly described as follows:
The project is located on Swift Creek, in Lincoln County, Wyoming, partially within the Bridger-Teton National Forest at approximately 42°43' N and 110°54' W.

Power factor requirements:

Rated Power Factor (PF) or reactive load (kVAR): PF = .83

EXHIBIT A – Culinary
DESCRIPTION OF SELLER’S FACILITY_(CULINARY)
[Seller to Complete]

Seller’s Facility_(culinary) consists of one generator manufactured by Emerson Motor Technologies. More specifically, each generator at the Facility_(culinary) is described as:

Type (synchronous or inductive): Inductive

Model: DI=68093

Number of Phases: 3

Rated Output (kW): 225 **Rated Output (kVA):**

Rated Voltage (line to line):

Rated Current (A): Stator: 480 A; Rotor: _____ A

Maximum kW Output (“Maximum Facility Delivery Rate_(culinary)”): 261 kW

Maximum kVA Output: _____ kVA

Minimum kW Output: 225 kW

Manufacturer’s Guaranteed Cut-in Wind Speed [if applicable]: N/A

Facility Capacity Rating_(culinary): 225 kW at 60 Hz _____ A

Identify the Maximum Facility Delivery Rate_(culinary) and describe any differences between that output and the Facility Capacity Rating_(culinary):

Station service requirements, and other loads served by the Facility_(culinary), if any, are described as follows: Station service loads are metered and connected on a separate service and meter from the 12.47 kv distribution system through a 120/240 single phase service. Station Service loads are estimated to be 14,500 KWH per year

Location of the Facility_(culinary): The Facility_(culinary) is located in Lincoln County, Wyoming. The location is more particularly described as follows: 42° 43’ 53” N and 110° 51’ 43” W

Power factor requirements:

Rated Power Factor (PF) or reactive load (kVAR): PF = .72

EXHIBIT B

SELLER'S INTERCONNECTION FACILITIES

[Seller to provide its own diagram and description]

POINT OF DELIVERY / SELLER'S INTERCONNECTION FACILITIES

Instructions to Seller:

1. Describe the point(s) of metering, including the type of meter(s), and the owner of the meter(s) at Facility_(lower), Facility_(upper), and Facility_(culinary).

The Lower Swift Creek Facility and the Upper Swift Creek Facility are metered separately. The point of metering at each Facility is in the secondary compartment of the 277/480 step up transformers. The Lower Swift Creek Facility is a 750 kva transformer, The Upper Swift Creek Facility is a 1500 kva transformer. The metering is done by 500-5 CT's and a Gemstar JEM10 meter. The meters are owned by Bonneville Power Administration. The Culinary is metered in a 300 kva transformer with 200-5 CT's along with a Gemstar JEM10 meter, station service is metered with a Landis & Gyr FM2S meter both meters are owned by Bonneville Power Administration.

2. Provide single line diagrams of Facility_(lower), Facility_(upper), and Facility_(culinary) including station use meter, Facility output meter(s), Interconnection Facilities, Points of Interconnection.

One-line diagrams of Facility_(lower), Facility_(upper), and Facility_(culinary) are attached. For Facility_(lower) and Facility_(upper) the Point of Interconnection is the 12.47 kV side of the step-up transformer. For Facility_(culinary), the Point of Interconnection is the _high side of the 300 KVA step-up-transformer.

3. Specify the Point of Delivery, and any transmission facilities on Seller's side of the Point of Delivery used to deliver Net Output.

The power will be delivered from the Lower Valley Energy distribution system to BPA. BPA will deliver the power to PacifiCorp at the Goshen Substation. See attached one-line diagram

LEGEND

- BKM
- LVE
- RMP
- PACE

(ALL TRANSFORMERS RATED IN KVA)
 1. 1500 KVA
 2. 1000 KVA
 3. 500 KVA
 4. 250 KVA

- 15KV
- 10KV
- 5KV
- 4KV
- 3KV
- 2KV
- 1KV

NOTES

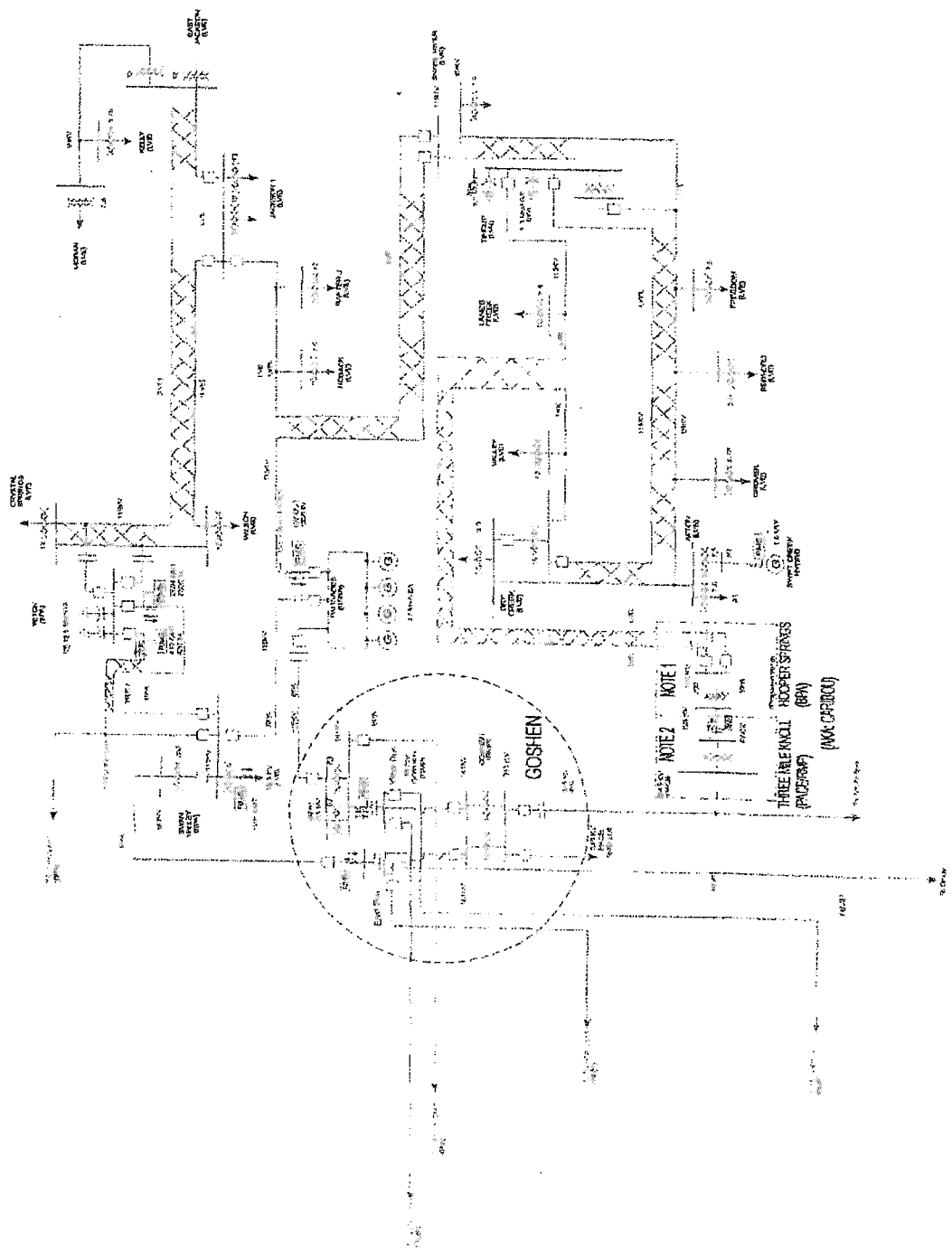
1. RUN TO CONSTRUCT A 15KV - 115KV SUBSTATION LVE TO CONSTRUCT TWO 15KV LINES INTO BERKE SOUTHERN SYSTEM. ENERGIZATION OF 12/20/10 EXPECTED.
2. RUN TO TAP THE AMBERGEE MERRY LINE AND CONSTRUCT A 315 - 100KV SUBSTATION.

ROCKY MOUNTAIN POWER IS THE HOST BALANCING AUTHORITY

REVISED: 3/26/2009 SHEET 1 OF 1
 BONNEVILLE POWER ADMINISTRATION
 Customer Service Engineering
 Meter Diagram

LOWER VALLEY ENERGY
 Customer #10244

CUSTOMER SERVICE ENGINEER:
 DUSTY GLANS - TRC/DAVID FALLS



NOTE 1
 NOTE 2

THREE WINDMILL HOOPER SPRINGS (PUDS) (BVA) (MVA-CAPABLE)

EXHIBIT C
REQUIRED FACILITY DOCUMENTS

REQUIRED OF ALL FACILITIES:

QF Certifications:

Facility_(lower): QF 10-157-000

Facility_(upper): QF 08-641-000

Facility_(culinary): QF 11-61-000

FERC Hydro Licenses:

Facility_(lower): P-1651

Facility_(upper): P-1651

Facility_(culinary): P-13301-022

Generation Interconnection Agreement: Not applicable

Fuel Supply Agreement, if applicable N/A

BPA point-to-point transmission service agreement:

For May 2011 to April 2012: Dated May 10, 2010, Ref # 73970298

For May 2012 to April 2015: Dated May 4, 2011, Ref # 75429714

The following Documents are required to complete this project:

Easements:

Permits:

EXHIBIT D
ENERGY DELIVERY SCHEDULE

	Upper Swift Creek Hydro ("Facility _{upper} ") 0.940MW Nameplate Capacity			Lower Swift Creek Hydro ("Facility _{lower} ") 0.535 MW Nameplate Capacity			Facility _{upper and lower} SMED _(upper and lower) Scheduled	
	Monthly Energy Delivery (kWh)	Avg. Delivery Rate (MW)	Monthly Capacity Factor (%)	Monthly Energy Delivery (kWh)	Avg. Delivery Rate (MW)	Monthly Capacity Factor (%)	Monthly Energy Delivery (kWh)	Avg. Delivery Rate (MW)
January	127,588	.26	28%	54,235	.101	17%	181,823	.309
February	102,451	.19	22%	47,852	.09	15%	150,303	.28
March	115,425	.21	22%	59,825	.09	15%	175,250	.26
April	184,750	.26	27%	86,520	.12	20%	271,270	.38
May	345,845	.456	49%	187,699	.187	33%	533,544	.486
June	546,866	.776	83%	301,939	.419	70%	848,805	1.19
July	538,905	.806	86%	291,022	.404	68%	829,924	1.23
August	412,450	.61	64%	145,365	.22	37%	557,815	.829
September	274,580	.38	40%	113,480	.15	25%	388,060	.539
October	256,245	.38	40%	85,623	.13	22%	341,868	.505
November	178,562	.31	32%	76,799	.106	18%	255,361	.408
December	155,632	.25	27%	68,452	.15	19%	224,084	.369
TOTAL:	3,239,299	.393	43%	1,518,811	.115	35%	4,758,110	.568

Culinary Hydro ("Facility_{culinary}") 0.225 MW Nameplate Capacity			
	SMED_(culinary): Scheduled Monthly Energy Delivery (kWh)	Avg. Delivery Rate (MW)	Monthly Capacity Factor (%)
January	82,092	.110	49%
February	65,859	.098	44%
March	63,006	.085	38%
April	60,720	.084	37%
May	115,251	.155	69%
June	148,214	.206	91%
July	163,245	.219	98%
August	138,978	.187	83%
September	111,450	.155	69%
October	108,544	.146	65%
November	98,652	.133	59%
December	93,545	.126	56%
TOTAL:	1,249,556	.145	64%

Scheduled Maintenance – Seller will provide a suggested maintenance schedule annually.

EXHIBIT F-1
MOTIVE FORCE PLAN

See attached MF Plan

Exhibit F-1

nighttime hours, for the period May 1 through September 30; and

4 cfs average (24 hours) minimum flow with a maximum fluctuation of 1 cfs (never to fall below 4 cfs) from October 1 through April 30, during all hours."

Power Development

The characteristics of the variations in flows as illustrated in figures 3-1 to 3-6 were reviewed in order to determine the appropriate power development at the

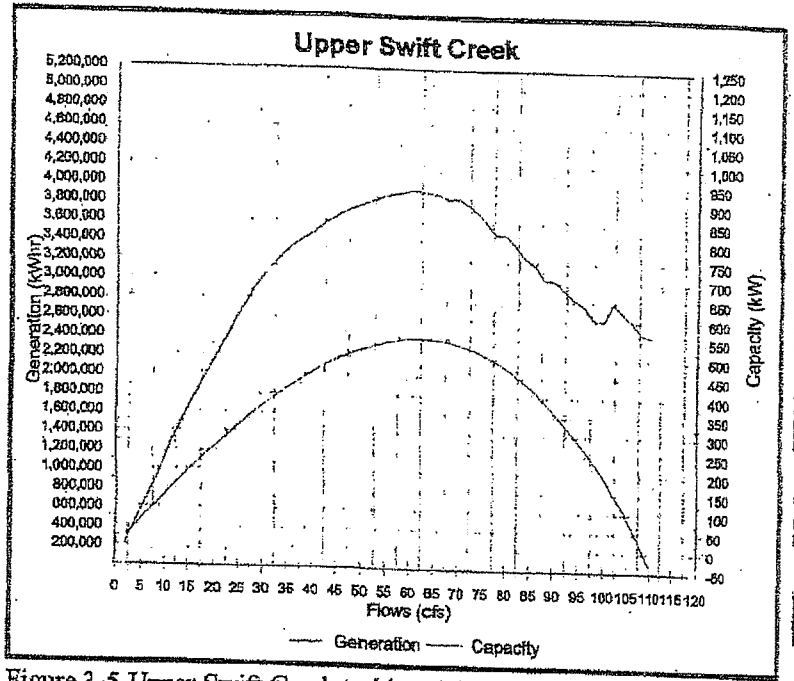


Figure 3-5 Upper Swift Creek turbine sizing chart for a 36" penstock

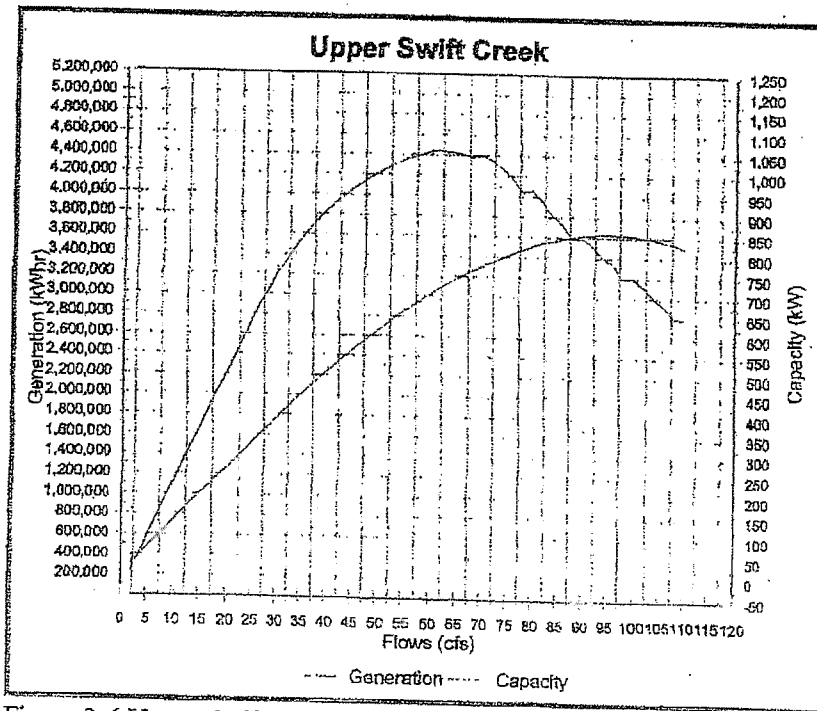


Figure 3-6 Upper Swift Creek turbine sizing chart for a 42" penstock

site. It was assumed that the past records for the selected period provided the best measure of future flows. It is anticipated that a horizontal Francis type turbine will be used for the project. A Francis turbine has a runner with fixed vanes, which the water enters the turbine in a radial direction, with respect to the shaft and discharges in an axial direction. Major components consist of the runner, a water supply case to convey the water

to the runner, wicket gates to control the quantity of water and distribute it equally to the runner and a draft tube to convey the water away from the turbine. Utilizing the estimated efficiencies, head losses, turbine configurations, and 5% general losses; the estimated average annual production for this site was between 3.9 and 4.5 million kilowatts/year pending on the size of the penstock.

3.2 Culinary Project Hydrology

Flows

Flow data used was provided in Sunrise Engineering's update to Feasibility Study dated August 7, 2001, Exhibit A. Flow data consists of monthly annual averages. The estimated flow duration curve, figure 3-7, was extrapolated from the monthly annual averages which appear as blue in figure 3-7.

Power Development

Data from figure 3-7 was used to preliminarily size turbines and estimate annual average generation for this site. Utilizing the estimated efficiencies, head losses, turbine configurations, and 5% general losses; the estimated average annual production for this site was 1.27 million kilowatt hours per year.

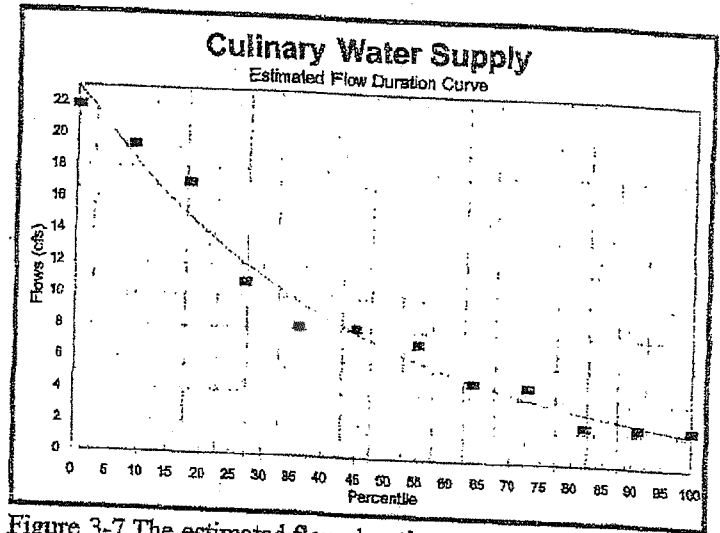


Figure 3-7 The estimated flow duration curve for Afton Culinary Water Supply

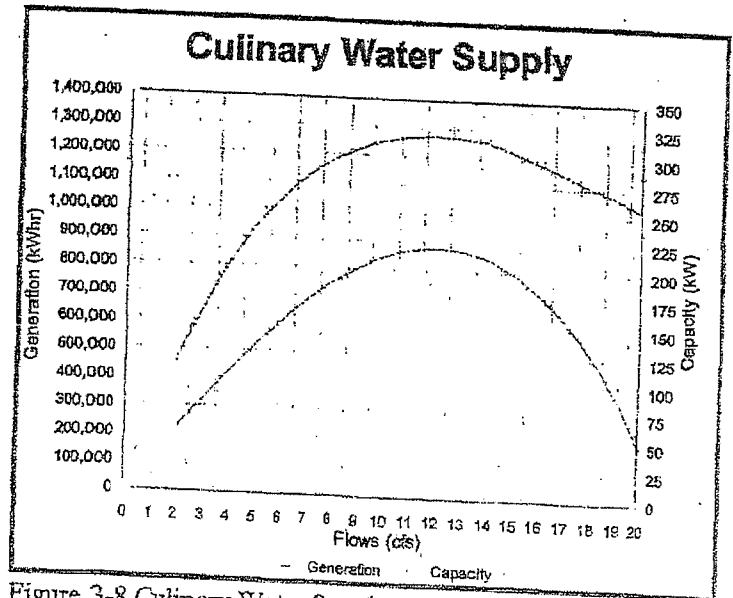


Figure 3-8 Culinary Water Supply turbine sizing chart

EXHIBIT G¹
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 purchase price during an On-Peak Hour in May of 2009 is \$76.73/MWh (the 2009 annual rate for Conforming Energy) multiplied by 92% (0.92) (the May On-Peak Hour multiplier), which equals \$70.59/MWh.

Table 3: Sample Calculations for Conforming Energy in 2009 [Purchase Price = annual rate * monthly On-Peak/Off-Peak multiplier].

Month	Conforming Energy Annual Rate for 2009 (per MWh)	On-Peak Hour Multiplier	Calculated Purchase Price for 2009 On-Peak Conforming Energy (per MWh)	Off-Peak Hour Multiplier	Calculated Purchase Price for 2009 Off-Peak Conforming Energy (per MWh)
January	\$76.73	103%	\$79.03	94%	\$72.13
February	\$76.73	105%	\$80.57	97%	\$74.43
March	\$76.73	95%	\$72.89	80%	\$61.38
April	\$76.73	95%	\$72.89	76%	\$58.31
May	\$76.73	92%	\$70.59	63%	\$48.34
June	\$76.73	94%	\$72.13	65%	\$49.87
July	\$76.73	121%	\$92.84	92%	\$70.59
August	\$76.73	121%	\$92.84	106%	\$81.33
September	\$76.73	109%	\$83.64	99%	\$75.96
October	\$76.73	115%	\$88.24	105%	\$80.57
November	\$76.73	110%	\$84.40	96%	\$73.66
December	\$76.73	129%	\$98.98	120%	\$92.08

¹ This example does not include rates for the Culinary Facility, which will be calculated using the Conforming Energy rate for the Culinary Facility using the methodology above.

EXHIBIT H

Seller Authorization to Release Generation Data to PacifiCorp

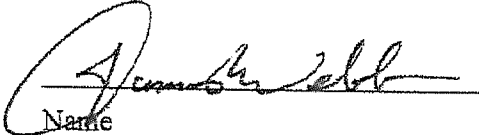
[Interconnection Customer Letterhead]

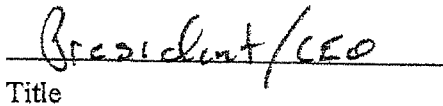
[Address to Interconnected Utility]

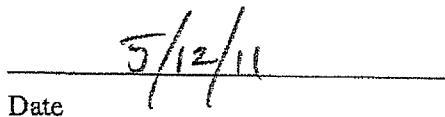
RE: Upper Swift Creek, Lower Swift Creek, and Culinary Hydroelectric Interconnections

Dear Sir:

Lower Valley Energy, Inc. hereby voluntarily authorizes Lower Valley Energy, Inc. to share Lower Valley Energy, Inc.'s generator interconnection information and generator meter data relating to Lower Valley Energy, Inc.'s Upper Swift Creek, Lower Swift Creek, and Culinary Qualifying Facility located in Lincoln County, Wyoming with Marketing Affiliate employees of PacifiCorp Energy, including, but not limited to those in the Commercial and Trading group. Lower Valley Energy, Inc. 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's System;

WHEREAS, Seller and PacifiCorp 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 Points 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).

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 Points 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 Net Output to PacifiCorp, scheduling energy into the PacifiCorp system and any other costs associated with delivering 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_(x)) at an average hourly rate exceeding the Maximum Facility Delivery Rate_(x), 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 9 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 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;

Example Calculation for the Allocation of Energy Imbalance Accumulation to Net Output of Facilities

for Off-Peak Hours in a hypothetical Settlement Period of the month of April:

	Variable	Value	Source
A	Total Off-Peak Net Output _(upper and lower) in April:	404 MWh	Total Off-Peak Net Output _(upper and lower) from Seller's required output reporting table, based on meters
B	Total Off-Peak Net Output _(culinary) in April:	135 MWh	Total Off-Peak Net Output _(culinary) from Seller's required output reporting table, based on meters
C	Total Off-Peak Net Output of all Facilities in April:	539 MWh	Line A + Line B
D	Percent of Total Off-Peak Net Output from Facility _(upper and lower) :	74.95%	(Line A / Line C) * 100%
E	Percent of Total Off-Peak Net Output from Facility _(culinary) :	25.05%	(Line B / Line C) * 100%
F	Total Off-Peak Energy Delivered to Point of Delivery by Transmitting Entity(s) in April:	500 MWh	Metered energy delivered by BPA at the Point of Delivery
G	Energy Imbalance Accumulation	-39 MWh	Line F - Line C
H	Surplus Delivery, if any:	0 MWh	Greater of 0 or Line G
I	Negative EIA, if any, attributable to Facility _(upper and lower) :	-29.23 MWh	Lesser of 0 or (Line G * Line D)
J	Negative EIA, if any, attributable to Facility _(culinary) :	-9.77 MWh	Lesser of 0 or (Line G * Line E)
K	Delivered Off-Peak Net Output_(upper and lower):	374.77 MWh	Line A + Line I
L	Delivered Off-Peak Net Output_(culinary):	125.23 MWh	Line B + Line J

To determine delivered On-Peak Net Output for each Facility, the above calculation is repeated using On-Peak values for generated Net Output in Lines A and B and energy deliveries by Transmitting Entity(s) in Line F.

(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.

(f) Seller shall not schedule delivery to the Point of Delivery at a rate exceeding the Maximum Facility Delivery Rate rounded up to the nearest whole megawatt.

8. **Seller's Right to Deliver Supplemented Output.** In reliance upon Seller's warranties in Section 7, above, 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 9.1 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.

(c) **Allocation between Projects for Payment Purposes.** Net Output metered at the Point of Delivery (except Surplus Delivery) will be allocated to each individual Facility in proportion to its share of the total Net Output metered at the Points of Interconnection, independently for On-peak and Off-peak Hours. This proportional allocation is for purposes of determining the amount of Conforming and Non-Conforming Energy for each of Facility_(upper and lower) and Facility_(culinary) and for determining the applicable rate for Net Output. An example calculation of allocation of Energy Imbalance Accumulation among the Facilities is below the Examples.

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.

EXAMPLES

Seller's Output Reporting Requirement

Example of Seller's Output Reporting Requirement – Seller would complete (1) one reporting table for Facility_(culinary), (2) one reporting table for Facility_(lower), (3) one reporting table for Facility_(upper), and (4) one table with the summed Net Output of Facility_(lower) and Facility_(upper).

Day	Hour ending (HE)	A	B	C	D	E	F
		Meter Reading ^ψ at Point of Interconnection _(lower) (MWh)	Meter reading at Station Power Meter _(lower) * (MWh)	(A-B)		(Max (0, C-D))	(C-E)
				Adjusted Gross Output _(lower) (MWh)	Maximum Facility Delivery Rate _(lower) (MW)	Inadvertent Energy _(lower) (MWh)	Net Output _(lower) (MWh)
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_(x) and the Point of Interconnection_(x), in accordance with Section 8.1.

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

Example of Table for Summed Net Output from Facility_(lower) and Facility_(upper)

Day	Hour ending (HE)	G	H	I
		(F _(lower))	(F _(upper))	(G+H)
		Net Output _(lower) (MWh)	Net Output _(upper) (MWh)	Net Output _(upper and lower) (MWh)
1	8:00	0.49	0.20	0.69
1	9:00	0.49	0.21	0.70

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
PACIFICORP DBA ROCKY MOUNTAIN)	CASE NO. PAC-E-14-06
POWER FOR APPROVAL OF A POWER)	
PURCHASE AGREEMENT WITH LOWER)	
VALLEY ENERGY, INC.)	ORDER NO. 33107
)	

On July 3, 2014, PacifiCorp dba Rocky Mountain Power filed an Application with the Commission requesting that the Commission approve a Power Purchase Agreement between Rocky Mountain Power and Lower Valley Energy, Inc. for the sale and purchase of electric energy produced by the Lower Valley hydroelectric project located in Afton, Wyoming. The Commission issued a Notice of Application and Notice of Modified Procedure on July 30, 2014, setting a comment deadline. Order No. 33085. Commission Staff was the only person/party to file comments.

By this Order, we approve the June 17, 2014, Agreement between Rocky Mountain Power and Lower Valley Energy for the sale and purchase of electric energy.

THE APPLICATION

A. Background

Lower Valley owns, operates and maintains three run of river hydroelectric generating facilities in Lincoln County, Wyoming – two are located on Swift Creek and one is located on the culinary water system located in/near the town of Afton. The Swift Creek facilities were completed in 2009 and have maximum capacities of 940 kW (the “Upper Facility”) and 535 kW (the “Lower Facility”). The third facility – the “Culinary Facility” – has a nameplate capacity of 225 kW.

On May 22, 2009, PacifiCorp and Lower Valley entered into a Power Purchase Agreement (PPA) regarding the Upper Facility for a three-year term, expiring on May 1, 2012. The Commission approved the PPA in July 2009. Order No. 30864. In February 2010, the Company and Lower Valley executed a Revised and Restated Power Purchase Agreement to include generation from the Lower Facility. The Commission approved the revised agreement on February 25, 2010, by Minute Order. In May 2011, PacifiCorp and Lower Valley sought another revision of the PPA. The parties requested that the Commission add output from the

newly constructed Culinary Facility and extend the term of the entire contract through September 1, 2014. The Commission approved the addition of the Culinary Facility and extension of the contract term on August 10, 2011. Order No. 32323.

B. The Agreement

PacifiCorp and Lower Valley executed an agreement on June 17, 2014, pursuant to the terms and conditions of the various Commission orders applicable to this PURPA agreement for a hydroelectric resource. Under the terms of the PPA, Lower Valley elected to contract with Rocky Mountain for a two-year term using non-levelized published avoided cost rates established at the time of the PPA under Order No. 32817 for energy deliveries of less than 10 average megawatts (aMW).

The nameplate rating of the facilities as a whole is 1.7 MW. Lower Valley has attested and documented through its generation profile that its facilities will not exceed 10 aMW on a monthly basis. Should the facilities exceed 10 aMW on a monthly basis, Rocky Mountain will accept the energy that does not exceed the maximum facility delivery rate (inadvertent energy), but will not purchase or pay for the inadvertent energy. Furthermore, this PURPA agreement includes the 90-110 performance band as required by Commission Order No. 29632.

PURPA QF generation must be designated as a network resource on Rocky Mountain's system, which requires the Company's merchant function to submit a Transmission Service Request on behalf of the facilities to PacifiCorp transmission. Submission of this request occurred on May 29, 2014. Upon resolution of any necessary upgrades to acquire network transmission capacity for delivery of energy and upon execution of the PPA, the facilities may then be designated as a network resource.

Lower Valley has also been made aware of and accepted the provisions of the PPA regarding curtailment or disconnection of its facilities should certain operating conditions develop on the Company's system. Section 6 of the PPA defines the condition for curtailment and obligations of Lower Valley in the event of curtailment.

By its own terms, the Agreement will not become effective until the Commission has approved all of the terms and conditions and declares that all payments made by Rocky Mountain Power to the project for purchases of energy "are just and reasonable, in the public interest, and that the costs incurred by [Rocky Mountain Power] for purchases of capacity and energy from [Lower Valley] are legitimate expenses, all of which the Commission will allow

[Rocky Mountain Power] to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.” Agreement ¶ 2.1.

COMMENTS

Staff was the only person or party to file comments. Staff noted that this Agreement is intended to replace an existing Agreement that will expire on September 1, 2014. Staff further identified that nearly all of the terms of the new Agreement are identical to those in the expiring Agreement. One difference between the old and new Agreements, however, is that the rates in the new Agreement have been updated. Staff confirmed that the Agreement contains the non-levelized published avoided cost rates in accordance with Commission Order No. 32817. Staff confirmed that the monthly on-peak/off-peak multipliers contained in the Agreement are also correct.

The Agreement does not specify ownership arrangements for any renewable energy credits (RECs) associated with the project, but PacifiCorp through e-mail correspondence confirmed with Staff that the RECs for this project will be owned by the QF. This ownership arrangement is consistent with recent Commission Orders. *See* Order Nos. 32697, 32802.

Based on its review, Staff recommended that the Commission approve all of the Agreement’s terms and conditions and declare that all payments made by PacifiCorp to Lower Valley for purchase of energy be allowed as prudently incurred expenses for ratemaking purposes.

FINDINGS AND CONCLUSIONS

The Idaho Public Utilities Commission has jurisdiction over Rocky Mountain Power, an electric utility, and the issues raised in this matter pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

The Commission has reviewed the record in this case, including the Application, the existing and new Agreements, and the comments of Commission Staff. Based on the record, we find that the proposed Agreement submitted in this case contains acceptable contract provisions including the non-levelized avoided cost rates in accordance with Commission Order No. 32817.

Consequently, we approve the Agreement without material change or condition. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

ORDER

IT IS HEREBY ORDERED that the Energy Sales Agreement between Rocky Mountain Power and Lower Valley Energy is approved without change or condition.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

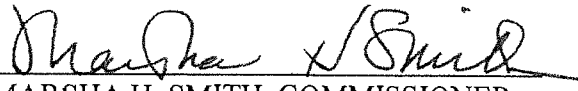
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 27th day of August 2014.



PAUL KJELLANDER, PRESIDENT

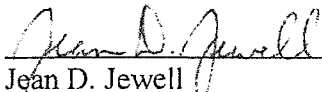


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:PAC-E-14-06_ks2