



825 NE Multnomah St., Suite 1600  
Portland, Oregon 97232

September 2, 2016

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

RE: *PacifiCorp*  
Docket No. ER16-\_\_\_\_\_-000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2006), Part 35 of the Federal Energy Regulatory Commission's ("Commission") regulations, 18 C.F.R. Part 35 (2015), and Order No. 714<sup>1</sup> regarding electronic filing of tariff submittals, PacifiCorp hereby tenders for filing the following jurisdictional agreement:

Engineering and Procurement Agreement ("E&P Agreement"), between Utah Associated Municipal Power Systems ("UAMPS") and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 723.

## **1. Background and Reason for Filing**

PacifiCorp and UAMPS are parties to a Transmission Service Operating Agreement ("TSOA") filed with Commission. UAMPS is in the process of developing a site on behalf of Lehi City, Utah ("Member") that includes lands in Lehi City, Utah and for which UAMPS has made application to PacifiCorp for the interconnection of a new Point of Delivery (the "Project"). UAMPS has requested transmission service for the Project from PacifiCorp pursuant to the TSOA. PacifiCorp has provided to UAMPS and Member the results of a system impact/facilities study which identified the facilities necessary for the interconnection of the proposed point of delivery with PacifiCorp's system.

To advance the implementation of the Project, UAMPS requests that PacifiCorp begin certain activities related to the Project prior to the execution of a Construction Agreement. The parties set forth their agreement with respect to such engineering and procurement services related to the construction of the Project and payment for such services under the E&P Agreement. PacifiCorp respectfully requests the Commission accept the E&P Agreement attached hereto for filing.

---

<sup>1</sup> *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).

**2. Effective Date and Request for Waiver**

In accordance with 18 C.F.R. § 35.3(a)(1), PacifiCorp respectfully requests that the Commission establish an effective date of November 2, 2016, for the E&P Agreement.

To the extent that any filing requirement in Part 35 of the Commission’s regulations is not satisfied by this filing and the materials enclosed herewith, PacifiCorp respectfully requests waiver of such requirements.

**3. Designation**

PacifiCorp requests that the E&P Agreement be designated as PacifiCorp Rate Schedule No. 723.

**4. Enclosure**

The following enclosure is attached hereto:

Enclosure E&P Agreement between UAMPS and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 723.

**5. Communications**

All communications and correspondence regarding this filing should be forwarded to the following persons:

Patrick C. Cannon  
Senior Counsel  
PacifiCorp  
825 N.E. Multnomah, Suite 1800  
Portland, OR 97232  
(503) 813-5613  
(503) 813-6508 (facsimile)  
[Patrick.Cannon@PacifiCorp.com](mailto:Patrick.Cannon@PacifiCorp.com)

Rick Vail  
Vice President, Transmission  
PacifiCorp  
825 N.E. Multnomah, Suite 1600  
Portland, OR 97232  
(503) 813-6938  
(503) 813-6893 (facsimile)  
[Richard.Vail@PacifiCorp.com](mailto:Richard.Vail@PacifiCorp.com)

**6. Service List**

Pursuant to Rule 2010 of the Commission’s Rules of Practice and Procedure, a copy of this filing is being served on the following:

Marshall Empey  
Utah Associated Municipal Power  
Systems  
155 North 400 West, Suite 480  
Salt Lake City, UT 84103  
[marshall@uamps.com](mailto:marshall@uamps.com)

Utah Public Service Commission  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84114  
[psc@utah.gov](mailto:psc@utah.gov)

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me.

Respectfully Submitted,

/s/ Patrick C. Cannon  
Patrick C. Cannon

*Attorney for PacifiCorp*

## CERTIFICATE OF SERVICE

I hereby certify that I have on this day caused a copy of the foregoing document to be served via first-class mail or electronic mail upon each of the parties listed in the enclosed Service List.

Dated at Portland, Oregon this 2<sup>nd</sup> day of September, 2016.

/s/ Patrick C. Cannon

Patrick C. Cannon  
PacifiCorp  
825 N.E. Multnomah, Suite 1800  
Portland, OR 97232  
(503) 813-5613  
(503) 813-6508 (facsimile)  
[patrick.cannon@pacificorp.com](mailto:patrick.cannon@pacificorp.com)

## ENGINEERING AND PROCUREMENT AGREEMENT

THIS ENGINEERING AND PROCUREMENT AGREEMENT (“Agreement”) is made and entered into this 29th day of August, 2016, by and between PacifiCorp Transmission Services, (“Transmission Provider”) and Utah Associated Municipal Power Systems (OTP115), (“Transmission Customer” or “UAMPS”). Transmission Customer and Transmission Provider each may be referred to individually as a “Party” or collectively as the “Parties.”

### Recitals

**WHEREAS**, Transmission Provider has an Open Access Transmission Tariff (“OATT”) on file with the Federal Energy Regulatory Commission (“FERC”) and provides Transmission Service on its transmission system;

**WHEREAS**, Transmission Provider and UAMPS are parties to a Transmission Service Operating Agreement (“TSOA”), filed with FERC;

**WHEREAS**, Transmission Customer is in the process of developing a site on behalf of Lehi City, Utah (“Member”) that includes lands in Lehi City, Utah and for which Transmission Customer has made application to Transmission Provider for the interconnection of a new Point of Delivery (the “Project”);

**WHEREAS**, Transmission Customer has requested Transmission Service for the Project from Transmission Provider pursuant to the TSOA and OATT;

**WHEREAS**, Transmission Provider has provided to Transmission Customer and Member the results of a system impact/facilities study (“Study”) which identified the facilities necessary for the interconnection of the proposed Point of Delivery with Transmission Provider’s system;

**WHEREAS**, to advance the implementation of the interconnection, Transmission Customer requests that Transmission Provider begin certain activities relative to the interconnection of the Project prior to the execution of the Construction Agreement (“CA”);

**WHEREAS**, upon the request by the Transmission Customer, Transmission Provider may offer an engineering and procurement agreement that authorizes Transmission Provider to begin work described herein necessary for the establishment of the interconnection;

**WHEREAS**, the Parties recognize that this Agreement does not have the effect of altering Transmission Customer’s queue position in Transmission Provider’s projected in-service date for the Project; and

**WHEREAS**, the Parties wish to set forth their agreement with respect to such engineering and procurement services related to the construction of the Transmission Provider’s Interconnection Facilities and Network Upgrades and payment for such services;

**NOW THEREFORE**, in consideration of and subject to the mutual covenants contained herein, it is agreed:

### Agreement

**1. Definitions.** Unless specifically defined herein, capitalized terms shall have the meaning as defined in the OATT and TSOA.

**2. Effective Date, Term and Termination.** This Agreement shall be effective upon the later of the following: (1) the date of execution by both Parties, or (2) the effective date established by FERC upon acceptance for filing.

This Agreement shall remain in effect until 90 days after the earliest of the following to occur:

- (a) Execution by the Parties of the CA;
- (b) Termination of the Agreement as provided in Section 10 of this Agreement (Authorization of Additional Amounts for Project Costs); or
- (c) Termination of the Agreement as provided in Section 11 of this Agreement (Right to Stop Work).

Notwithstanding the foregoing, the provisions of this Agreement necessary to ensure payment of amounts due hereunder by one Party to the other Party shall continue in effect until each Party has satisfied its payment obligations to the other, if any.

**3. Engineering and Procurement Services to Be Provided.** Execution of this Agreement shall not obligate Transmission Provider to perform any construction work, acquire easements, provide Transmission Service, or to undertake any other obligations not expressly set forth in this Agreement. In accordance with the terms of this Agreement and provided that Transmission Customer (a) is not in default under the terms of this Agreement, or (b) has not failed to comply with any prerequisites specified in the OATT or TSOA, Transmission Provider shall commence the engineering services as further described herein ("Engineering Services") and the procurement services as further described herein ("Procurement Services").

Engineering Services shall mean the services set out in Exhibit A and shall also include such other services as Transmission Provider believes are reasonably necessary to engineer and design the Direct Assigned Facilities and Network Upgrades. Engineering Services shall also include the services of any consultant or professional engineering firms that may be retained by Transmission Customer, except that Transmission Customer may retain only those consultants or professional engineering firms approved by the Transmission Provider. Transmission Provider shall timely review such professional engineering firms.

Procurement Services shall mean the services set out in Exhibit A and shall also include such other services as Transmission Provider believes are reasonably necessary to specify, obtain bids, place purchase orders and otherwise to procure materials, equipment and contractors in connection therewith for the completion of the Direct Assigned Facilities and Network Upgrades. The Engineering Services and Procurement Services shall be collectively referred to herein as the "Services."

**4. Modification of Services.** At Transmission Customer's request, the Services set out in Exhibit A have been defined during an initial scoping meeting. As a consequence, the Parties acknowledge and accept that the estimates and scope of Services described in Exhibit A are not binding on the part of Transmission Provider and that Exhibit A may require modification to reflect engineering requirements of the Direct Assigned Facilities or Network Upgrades based on the final determination during the drafting of a CA. Such modifications shall include those deemed reasonably necessary by the Transmission Provider in preparation for the construction of the Direct Assigned Facilities or Network Upgrades. Transmission Customer, and anyone claiming by, through or under Transmission Customer, hereby waives its right to recover from and fully and irrevocably releases Transmission Provider from any and all claims, responsibility and/or liability that Transmission Customer may now have or hereafter acquire against Transmission Provider for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to such modifications.

**5. Performance Standards.** Each Party shall perform all its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice (as such terms are defined in the TSOA and OATT), and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in breach of this Agreement for compliance therewith. Notwithstanding anything in this Agreement to the contrary, in no event shall

Transmission Provider be responsible under the terms of this Agreement for any delay in completion of the requested Services.

**6. Access Rights.** Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to perform all its obligations under this Agreement.

**7. Lands of Other Property Owners.** If any part of the Direct Assigned Facilities or Network Upgrades are to be installed on property owned by or under the control of persons other than Transmission Customer or Transmission Provider, Transmission Customer shall at its expense use efforts to aid in the procurement from such persons any property rights in fee, perpetual lease, or other property rights in a form acceptable to the Transmission Provider that are necessary to construct, operate, maintain, test, inspect, replace or remove the Direct Assigned Facilities or Network Upgrades and upon such property.

**8. Project Costs.** Transmission Customer shall be responsible to reimburse and pay Transmission Provider for all costs and expenses reasonably incurred by Transmission Provider in connection with providing the Services pursuant to this Agreement ("Project Costs"). Project Costs shall include all reasonable and documented costs, charges, and expenses incurred by Transmission Provider in connection with the performance of the Services, including all of Transmission Provider's reasonable internal costs, overheads, third-party expenses, and cost of supplies, and any other amounts owed to Transmission Provider under the terms of this Agreement, including without limitation, all reasonable costs incurred by Transmission Provider in performing the activities described in Exhibit A, Scope of Work. Transmission Customer shall pay Transmission Provider for all Project Costs incurred, subject to the terms of this Agreement, including any additional costs incurred under Section 4 of this Agreement, Modification of Services. Transmission Customer hereby authorizes Transmission Provider to incur Project Costs in an initial amount of up to \$150,000.

**9. Payment of Estimated Project Costs.** Upon execution of this Agreement, Transmission Customer shall tender to Transmission Provider prepayment of Project Costs in the amount of \$100,000 (the "Prepayment"). Transmission Provider's obligation to proceed with the Services shall be contingent upon receipt of the Prepayment. Transmission Provider shall notify Transmission Customer when it determines the Project Costs will exceed the Prepayment and shall specify the estimated amount by which such Project Costs will exceed the Prepayment. Upon receipt of such notice, and following approval thereof by Transmission Customer, Transmission Customer shall tender to Transmission Provider prepayment of the estimated amount of additional Project Costs, which amount shall not exceed \$50,000.

**10. Authorization of Additional Amounts for Project Costs.** In the event that Transmission Provider determines Project Costs may exceed Authorized Amount, Transmission Provider shall notify Transmission Customer and request that Transmission Customer provide written approval authorizing such additional amounts for Project Costs within thirty (30) days of such notice. Transmission Provider's obligation to proceed with the Services associated with such additional amounts shall be contingent upon receipt of such approval, along with a prepayment in such additional amount. Transmission Customer shall be responsible for such Project Costs, as increased pursuant to such written authorization. If Transmission Customer does not authorize such additional amounts within such thirty (30) day period, this Agreement shall terminate after Transmission Provider gives Transmission Customer written notice and an additional fifteen (15) days to cure.

**11. Right to Stop Work.** Transmission Customer reserves the right, upon seven (7) days advance written notice to Transmission Provider, to require Transmission Provider at any time to stop all work by Transmission Provider pursuant to this Agreement, provided that such stop-work order is the result of suspension or termination of construction of the Project. Issuance of any such stop-work order shall terminate this Agreement. Upon issuance of any such stop-work order, Transmission Customer's request for Transmission Service for the

Project shall be deemed withdrawn. Upon issuance of any such stop-work order, Transmission Customer shall pay in accordance with section 12 below, the Project Costs Transmission Provider (a) has incurred prior to the stoppage of work, including, without limitation, the costs incurred in connection with the cancellation of third-party contracts and any cancellation costs for equipment that is already ordered for the Project.

**12. Billing.** Transmission Provider shall provide Transmission Customer with an invoice listing services performed and amounts due hereunder, showing credit for any prepayment of Project Costs made by Transmission Customer. Transmission Customer shall pay amounts due within thirty (30) days of the invoice date. Any refund due from Transmission Provider shall be paid to Transmission Customer within thirty (30) days of the invoice date. If Transmission Customer disputes any portion of the amount due, Transmission Customer shall pay the total bill and shall designate the disputed portion, and resolve the dispute in accordance with Article 27 of the OATT.

**13. Indemnification.** Subject to the limitations contained in Section 14 below, the Parties shall at all times indemnify, defend, and hold the other Party harmless, from any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inactions of its obligations under this Agreement, except in the case of gross negligence or intentional wrongdoing by the indemnified party.

**14. Remedies; Waiver; Warranty.** Either Party may exercise any or all of its rights and remedies under this Agreement, the OATT and under any applicable laws, rules and regulations. Transmission Provider's liability for any action arising out of its activities relating to this Agreement shall be limited to the refund of amounts received hereunder. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY OF THE OTHER PARTY'S ECONOMIC LOSSES, COSTS OR DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES. No provision of this Agreement or the OATT shall be deemed to have been waived unless such waiver is in writing signed by the waiving Party. No failure by any Party to insist upon the strict performance of any provision of this Agreement, the OATT or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of such provision or of any other provision. No waiver of any provision of this Agreement or the OATT shall be deemed a waiver of any other provision of this Agreement, the OATT or a waiver of such provision with respect to any subsequent breach, unless expressly provided in writing. Transmission Provider warrants that the work it performs hereunder shall be consistent with Good Utility Practice. TRANSMISSION PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, AND ALL SIMILAR WARRANTIES.

**15. Force Majeure.** Neither Party shall be subject to any liability or damages for failure to perform their respective obligations hereunder to the extent that such failure is due to causes beyond the control of the Party claiming force majeure protection, including but not limited to the following: (a) the operation and effect of any rules, regulations and orders promulgated by any commission, municipality, or governmental agency of the United States, or subdivision thereof; (b) restraining order, injunction or similar decree of any court; (c) war; (d) flood; (e) earthquake; (f) act of God; (g) sabotage; or (h) strikes or boycotts. The Party claiming force majeure protection under this provision shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible.

**16. Assignment.** Transmission Provider may at any time assign its rights and delegate its obligations under this Agreement, in whole or in part, including, without limitation, transferring its rights and obligations under this Agreement to any: (i) affiliate; (ii) successor in interest, or (iii) corporation or any other business entity in conjunction with a merger, consolidation or other business reorganization to which PacifiCorp is a party. Affiliate



includes any entity in which Berkshire Hathaway Inc. owns more than a 5% interest, over which Berkshire Hathaway Energy exercises management control, or which is listed on an exhibit to this Agreement. Transmission Customer shall not assign its rights, nor delegate its obligations, under this Agreement without the prior written consent of Transmission Provider, and any attempted transfer in violation of this restriction shall be void.

**17. Notice.** Any notice required to be given hereunder shall be deemed to have been given when it is sent, with postage prepaid, by registered or certified mail, return receipt requested, or upon delivery if delivered by prepaid commercial courier service, to either of the Parties hereto at their respective addresses as follows:

To Transmission Customer:

Marshall Empey  
Chief Operations Officer  
UAMPS  
155 North 400 West, Suite 480  
Salt Lake City, UT 84103

To Transmission Provider:

Rachel Matheson  
Account Manager, Transmission Services  
PacifiCorp  
1407 W North Temple, Suite 275  
Salt Lake City, UT 84116

**18. Governing Law.** Except to the extent preempted by federal law, this Agreement shall in all respects be interpreted, and enforced in accordance with the laws of the State of Utah without reference to rules governing conflicts of laws.

**19. Relationship of Parties; No Third-Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create an agency relationship, association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or liability on or with regard to either of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability or inference of liability to any third party.

**20. Severability.** If any provision of this Agreement is held invalid or unenforceable for any reason by a court or governmental agency of competent jurisdiction, then the objectionable portions of the provision shall be stricken, and all other provisions of this Agreement shall remain unaffected and in force. The Parties shall be relieved of their obligations only to the extent necessary to eliminate the objectionable portions unless a court or governmental agency of competent jurisdiction holds that the invalidated provision is not separable from the remainder of this Agreement.

**21. Waiver of Jury Trial.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. **EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE CONSOLIDATION OF, ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.**

22. **Exhibit Incorporated.** The Exhibit A to this Agreement, attached hereto, is incorporated and made part of this Agreement.

23. **Recitals, Headings.** The recitals, headings, and subtitles in this Agreement are for the convenience of the Parties and are not to be used for its construction or interpretation.

24. **Complete Agreement; Amendment.** This Agreement sets forth the entire Agreement between the Parties on the subject matter of this Agreement, and supersedes all prior Agreements of the Parties with respect to its subject matter. No amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by authorized representatives of both Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

PACIFICORP TRANSMISSION SERVICES

UAMPS (OTP115)

By:     /s/ Brian Fritz    

By:     /s/ Marshall Empey    

Title:     Director Transmission Services    

Title:     COO    

Date:     8/29/2016    

Date:     Aug 18, 2016

**Exhibit A****E&P Agreement Scope**

*Note: this is not intended to be comprehensive CA scope, nor is it intended to limit activities under this E&P Agreement.*

**Transmission Provider**

- Begin detailed engineering design and procurement work associated with the Direct Assigned Facilities and Network Upgrades as presented in Section 6 of the System Impact/Facilities Study sent to Transmission Customer and Member on June 17, 2016.
- Coordinate and/or work with Transmission Customer or Member on the procurement of any applicable property rights or rights of way for the construction of Direct Assigned Facilities or Network Upgrades.

**Transmission Customer (or Member)**

- Provide Transmission Provider necessary initial engineering drawings/design for the Transmission Customer/Member owned tie-line entering into the Transmission Provider owned substation and crossing existing Transmission Provider transmission lines.
- Coordinate and/or work with Transmission Provider on the procurement of any applicable property rights or rights of way for the construction of Direct Assigned Facilities or Network Upgrades.

AUG 29 2016

TRANSMISSION SERVICES  
PACIFICORP**ENGINEERING AND PROCUREMENT AGREEMENT**

THIS ENGINEERING AND PROCUREMENT AGREEMENT ("Agreement") is made and entered into this 29<sup>TH</sup> day of AUGUST, 2016 by and between PacifiCorp Transmission Services, ("Transmission Provider") and Utah Associated Municipal Power Systems (OTP115), ("Transmission Customer" or "UAMPS"). Transmission Customer and Transmission Provider each may be referred to individually as a "Party" or collectively as the "Parties."

Recitals

**WHEREAS**, Transmission Provider has an Open Access Transmission Tariff ("OATT") on file with the Federal Energy Regulatory Commission ("FERC") and provides Transmission Service on its transmission system;

**WHEREAS**, Transmission Provider and UAMPS are parties to a Transmission Service Operating Agreement ("TSOA"), filed with FERC;

**WHEREAS**, Transmission Customer is in the process of developing a site on behalf of Lehi City, Utah ("Member") that includes lands in Lehi City, Utah and for which Transmission Customer has made application to Transmission Provider for the interconnection of a new Point of Delivery (the "Project");

**WHEREAS**, Transmission Customer has requested Transmission Service for the Project from Transmission Provider pursuant to the TSOA and OATT;

**WHEREAS**, Transmission Provider has provided to Transmission Customer and Member the results of a system impact/facilities study ("Study") which identified the facilities necessary for the interconnection of the proposed Point of Delivery with Transmission Provider's system;

**WHEREAS**, to advance the implementation of the interconnection, Transmission Customer requests that Transmission Provider begin certain activities relative to the interconnection of the Project prior to the execution of the Construction Agreement ("CA");

**WHEREAS**, upon the request by the Transmission Customer, Transmission Provider may offer an engineering and procurement agreement that authorizes Transmission Provider to begin work described herein necessary for the establishment of the interconnection;

**WHEREAS**, the Parties recognize that this Agreement does not have the effect of altering Transmission Customer's queue position in Transmission Provider's projected in-service date for the Project; and

**WHEREAS**, the Parties wish to set forth their agreement with respect to such engineering and procurement services related to the construction of the Transmission Provider's Interconnection Facilities and Network Upgrades and payment for such services;

**NOW THEREFORE**, in consideration of and subject to the mutual covenants contained herein, it is agreed:

## Agreement

1. **Definitions.** Unless specifically defined herein, capitalized terms shall have the meaning as defined in the OATT and TSOA.

2. **Effective Date, Term and Termination.** This Agreement shall be effective upon the later of the following: (1) the date of execution by both Parties, or (2) the effective date established by FERC upon acceptance for filing.

This Agreement shall remain in effect until 90 days after the earliest of the following to occur:

- (a) Execution by the Parties of the CA;
- (b) Termination of the Agreement as provided in Section 10 of this Agreement (Authorization of Additional Amounts for Project Costs); or
- (c) Termination of the Agreement as provided in Section 11 of this Agreement (Right to Stop Work).

Notwithstanding the foregoing, the provisions of this Agreement necessary to ensure payment of amounts due hereunder by one Party to the other Party shall continue in effect until each Party has satisfied its payment obligations to the other, if any.

3. **Engineering and Procurement Services to Be Provided.** Execution of this Agreement shall not obligate Transmission Provider to perform any construction work, acquire easements, provide Transmission Service, or to undertake any other obligations not expressly set forth in this Agreement. In accordance with the terms of this Agreement and provided that Transmission Customer (a) is not in default under the terms of this Agreement, or (b) has not failed to comply with any prerequisites specified in the OATT or TSOA, Transmission Provider shall commence the engineering services as further described herein ("Engineering Services") and the procurement services as further described herein ("Procurement Services").

Engineering Services shall mean the services set out in Exhibit A and shall also include such other services as Transmission Provider believes are reasonably necessary to engineer and design the Direct Assigned Facilities and Network Upgrades. Engineering Services shall also include the services of any consultant or professional engineering firms that may be retained by Transmission Customer, except that Transmission Customer may retain only those consultants or professional engineering firms approved by the Transmission Provider. Transmission Provider shall timely review such professional engineering firms.

Procurement Services shall mean the services set out in Exhibit A and shall also include such other services as Transmission Provider believes are reasonably necessary to specify, obtain bids, place purchase orders and otherwise to procure materials, equipment and contractors in connection therewith for the completion of the Direct Assigned Facilities and Network Upgrades. The Engineering Services and Procurement Services shall be collectively referred to herein as the "Services."

4. **Modification of Services.** At Transmission Customer's request, the Services set out in Exhibit A have been defined during an initial scoping meeting. As a consequence, the

Parties acknowledge and accept that the estimates and scope of Services described in Exhibit A are not binding on the part of Transmission Provider and that Exhibit A may require modification to reflect engineering requirements of the Direct Assigned Facilities or Network Upgrades based on the final determination during the drafting of a CA. Such modifications shall include those deemed reasonably necessary by the Transmission Provider in preparation for the construction of the Direct Assigned Facilities or Network Upgrades. Transmission Customer, and anyone claiming by, through or under Transmission Customer, hereby waives its right to recover from and fully and irrevocably releases Transmission Provider from any and all claims, responsibility and/or liability that Transmission Customer may now have or hereafter acquire against Transmission Provider for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to such modifications.

5. **Performance Standards.** Each Party shall perform all its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice (as such terms are defined in the TSOA and OATT), and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in breach of this Agreement for compliance therewith. Notwithstanding anything in this Agreement to the contrary, in no event shall Transmission Provider be responsible under the terms of this Agreement for any delay in completion of the requested Services.

6. **Access Rights.** Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to perform all its obligations under this Agreement.

7. **Lands of Other Property Owners.** If any part of the Direct Assigned Facilities or Network Upgrades are to be installed on property owned by or under the control of persons other than Transmission Customer or Transmission Provider, Transmission Customer shall at its expense use efforts to aid in the procurement from such persons any property rights in fee, perpetual lease, or other property rights in a form acceptable to the Transmission Provider that are necessary to construct, operate, maintain, test, inspect, replace or remove the Direct Assigned Facilities or Network Upgrades and upon such property.

8. **Project Costs.** Transmission Customer shall be responsible to reimburse and pay Transmission Provider for all costs and expenses reasonably incurred by Transmission Provider in connection with providing the Services pursuant to this Agreement ("Project Costs"). Project Costs shall include all reasonable and documented costs, charges, and expenses incurred by Transmission Provider in connection with the performance of the Services, including all of Transmission Provider's reasonable internal costs, overheads, third-party expenses, and cost of supplies, and any other amounts owed to Transmission Provider under the terms of this Agreement, including without limitation, all reasonable costs incurred by Transmission Provider in performing the activities described in Exhibit A, Scope of Work. Transmission Customer shall pay Transmission Provider for all Project Costs incurred, subject to the terms of this Agreement, including any additional costs incurred under Section 4 of this Agreement, Modification of Services. Transmission Customer hereby authorizes Transmission Provider to incur Project Costs in an initial amount of up to \$150,000.

9. **Payment of Estimated Project Costs.** Upon execution of this Agreement, Transmission Customer shall tender to Transmission Provider prepayment of Project Costs in the amount of \$100,000 (the “Prepayment”). Transmission Provider’s obligation to proceed with the Services shall be contingent upon receipt of the Prepayment. Transmission Provider shall notify Transmission Customer when it determines the Project Costs will exceed the Prepayment and shall specify the estimated amount by which such Project Costs will exceed the Prepayment. Upon receipt of such notice, and following approval thereof by Transmission Customer, Transmission Customer shall tender to Transmission Provider prepayment of the estimated amount of additional Project Costs, which amount shall not exceed \$50,000.

10. **Authorization of Additional Amounts for Project Costs.** In the event that Transmission Provider determines Project Costs may exceed Authorized Amount, Transmission Provider shall notify Transmission Customer and request that Transmission Customer provide written approval authorizing such additional amounts for Project Costs within thirty (30) days of such notice. Transmission Provider’s obligation to proceed with the Services associated with such additional amounts shall be contingent upon receipt of such approval, along with a prepayment in such additional amount. Transmission Customer shall be responsible for such Project Costs, as increased pursuant to such written authorization. If Transmission Customer does not authorize such additional amounts within such thirty (30) day period, this Agreement shall terminate after Transmission Provider gives Transmission Customer written notice and an additional fifteen (15) days to cure.

11. **Right to Stop Work.** Transmission Customer reserves the right, upon seven (7) days advance written notice to Transmission Provider, to require Transmission Provider at any time to stop all work by Transmission Provider pursuant to this Agreement, provided that such stop-work order is the result of suspension or termination of construction of the Project. Issuance of any such stop-work order shall terminate this Agreement. Upon issuance of any such stop-work order, Transmission Customer’s request for Transmission Service for the Project shall be deemed withdrawn. Upon issuance of any such stop-work order, Transmission Customer shall pay in accordance with section 12 below, the Project Costs Transmission Provider (a) has incurred prior to the stoppage of work, including, without limitation, the costs incurred in connection with the cancellation of third-party contracts and any cancellation costs for equipment that is already ordered for the Project.

12. **Billing.** Transmission Provider shall provide Transmission Customer with an invoice listing services performed and amounts due hereunder, showing credit for any prepayment of Project Costs made by Transmission Customer. Transmission Customer shall pay amounts due within thirty (30) days of the invoice date. Any refund due from Transmission Provider shall be paid to Transmission Customer within thirty (30) days of the invoice date. If Transmission Customer disputes any portion of the amount due, Transmission Customer shall pay the total bill and shall designate the disputed portion, and resolve the dispute in accordance with Article 27 of the OATT.

13. **Indemnification.** Subject to the limitations contained in Section 14 below, the Parties shall at all times indemnify, defend, and hold the other Party harmless, from any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees,

and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inactions of its obligations under this Agreement, except in the case of gross negligence or intentional wrongdoing by the indemnified party.

**14. Remedies; Waiver; Warranty.** Either Party may exercise any or all of its rights and remedies under this Agreement, the OATT and under any applicable laws, rules and regulations. Transmission Provider's liability for any action arising out of its activities relating to this Agreement shall be limited to the refund of amounts received hereunder. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY OF THE OTHER PARTY'S ECONOMIC LOSSES, COSTS OR DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES. No provision of this Agreement or the OATT shall be deemed to have been waived unless such waiver is in writing signed by the waiving Party. No failure by any Party to insist upon the strict performance of any provision of this Agreement, the OATT or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of such provision or of any other provision. No waiver of any provision of this Agreement or the OATT shall be deemed a waiver of any other provision of this Agreement, the OATT or a waiver of such provision with respect to any subsequent breach, unless expressly provided in writing. Transmission Provider warrants that the work it performs hereunder shall be consistent with Good Utility Practice. TRANSMISSION PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, AND ALL SIMILAR WARRANTIES.

**15. Force Majeure.** Neither Party shall be subject to any liability or damages for failure to perform their respective obligations hereunder to the extent that such failure is due to causes beyond the control of the Party claiming force majeure protection, including but not limited to the following: (a) the operation and effect of any rules, regulations and orders promulgated by any commission, municipality, or governmental agency of the United States, or subdivision thereof; (b) restraining order, injunction or similar decree of any court; (c) war; (d) flood; (e) earthquake; (f) act of God; (g) sabotage; or (h) strikes or boycotts. The Party claiming force majeure protection under this provision shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible.

**16. Assignment.** Transmission Provider may at any time assign its rights and delegate its obligations under this Agreement, in whole or in part, including, without limitation, transferring its rights and obligations under this Agreement to any: (i) affiliate; (ii) successor in interest, or (iii) corporation or any other business entity in conjunction with a merger, consolidation or other business reorganization to which PacifiCorp is a party. Affiliate includes any entity in which Berkshire Hathaway Inc. owns more than a 5% interest, over which Berkshire Hathaway Energy exercises management control, or which is listed on an exhibit to this Agreement. Transmission Customer shall not assign its rights, nor delegate its obligations, under this Agreement without the prior written consent of Transmission Provider, and any attempted transfer in violation of this restriction shall be void.

**17. Notice.** Any notice required to be given hereunder shall be deemed to have been given when it is sent, with postage prepaid, by registered or certified mail, return receipt requested, or upon delivery if delivered by prepaid commercial courier service, to either of the Parties hereto at their respective addresses as follows:



To Transmission Customer:

Marshall Empey  
Chief Operations Officer  
UAMPS  
155 North 400 West, Suite 480  
Salt Lake City, UT 84103

To Transmission Provider:

Rachel Matheson  
Account Manager, Transmission Services  
PacifiCorp  
1407 W North Temple, Suite 275  
Salt Lake City, UT 84116

**18. Governing Law.** Except to the extent preempted by federal law, this Agreement shall in all respects be interpreted, and enforced in accordance with the laws of the State of Utah without reference to rules governing conflicts of laws.

**19. Relationship of Parties; No Third-Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create an agency relationship, association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or liability on or with regard to either of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability or inference of liability to any third party.

**20. Severability.** If any provision of this Agreement is held invalid or unenforceable for any reason by a court or governmental agency of competent jurisdiction, then the objectionable portions of the provision shall be stricken, and all other provisions of this Agreement shall remain unaffected and in force. The Parties shall be relieved of their obligations only to the extent necessary to eliminate the objectionable portions unless a court or governmental agency of competent jurisdiction holds that the invalidated provision is not separable from the remainder of this Agreement.

**21. Waiver of Jury Trial.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE CONSOLIDATION OF, ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

22. **Exhibit Incorporated.** The Exhibit A to this Agreement, attached hereto, is incorporated and made part of this Agreement.


23. **Recitals, Headings.** The recitals, headings, and subtitles in this Agreement are for the convenience of the Parties and are not to be used for its construction or interpretation.


24. **Complete Agreement; Amendment.** This Agreement sets forth the entire Agreement between the Parties on the subject matter of this Agreement, and supersedes all prior Agreements of the Parties with respect to its subject matter. No amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by authorized representatives of both Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

PACIFICORP TRANSMISSION SERVICES

UAMPS (OTP115)

By:   
BRIAN FRITZ

By:   
MR King

Title: DIRECTOR TRANSMISSION SERVICES

Title: COO

Date: 8/29/2016

Date: Aug 18, 2016

## Exhibit A

### E&P Agreement Scope

*Note: this is not intended to be comprehensive CA scope, nor is it intended to limit activities under this E&P Agreement.*

#### Transmission Provider

- Begin detailed engineering design and procurement work associated with the Direct Assigned Facilities and Network Upgrades as presented in Section 6 of the System Impact/Facilities Study sent to Transmission Customer and Member on June 17, 2016.
- Coordinate and/or work with Transmission Customer or Member on the procurement of any applicable property rights or rights of way for the construction of Direct Assigned Facilities or Network Upgrades.

#### Transmission Customer (or Member)

- Provide Transmission Provider necessary initial engineering drawings/design for the Transmission Customer/Member owned tie-line entering into the Transmission Provider owned substation and crossing existing Transmission Provider transmission lines.
- Coordinate and/or work with Transmission Provider on the procurement of any applicable property rights or rights of way for the construction of Direct Assigned Facilities or Network Upgrades.