



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

October 14, 2016

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

RE: *PacifiCorp*
Docket No. ER17-_____-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. 714¹ regarding electronic filing of tariff submittals, PacifiCorp hereby tenders for filing the following jurisdictional agreement:

Project Construction Agreement ("Construction Agreement") between Utah Associated Municipal Power Systems ("UAMPS") and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 724.

1. Background and Reason for Filing

PacifiCorp is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Utah. UAMPS is a joint action agency that provides wholesale electric energy to community-owned member power system load in and around Utah County, Utah.

As a UAMPS member, the City of Lehi has requested additional interconnection(s) at or near Eagle Mountain substation to reliably serve its loads and UAMPS has requested that PacifiCorp perform certain work to accommodate the request. PacifiCorp has determined that to accommodate Lehi's request, certain upgrades will be required to the Eagle Mountain substation. The Construction Agreement sets forth the terms and conditions to complete the project. Accordingly, PacifiCorp respectfully requests that the Commission accept the Construction Agreement, attached hereto, for filing.

¹ *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 December 14, 2016, for the Construction 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 Construction Agreement be designated as PacifiCorp Rate Schedule No. 724.

4. Enclosure

The following enclosure is attached hereto:

Construction Agreement between UAMPS and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 724

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

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

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

Utah Public Service Commission
Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84114
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 14th day of October, 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

PROJECT CONSTRUCTION AGREEMENT
PROJECT TITLE: UAMPS OTP0115

This Project Construction Agreement (the “Agreement”) made and entered into this 6th day of October, 2016, between Utah Associated Municipal Power Systems (OTP115), hereinafter called “UAMPS” or “Customer,” and *PacifiCorp*, hereinafter called “PacifiCorp” or “Company,” is for work to be performed by Company for Customer (hereinafter referred to as the “Project”). Hereinafter, UAMPS and PacifiCorp may be individually referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS:

- A. WHEREAS, PacifiCorp is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Utah;
- B. WHEREAS, UAMPS is a joint action agency that provides wholesale electric energy to community-owned member power system load in and around Utah County, Utah;
- C. WHEREAS, UAMPS has requested a project on behalf of the City of (“Lehi”), and which is a party to the Amended and Restated Transmission Service and Operating Agreement (“TSOA”) with PacifiCorp;
- D. WHEREAS, Under terms of the TSOA, Lehi has requested additional interconnection(s) at or near Eagle Mountain substation to reliably serve its loads and UAMPS has requested that PacifiCorp perform certain work to accommodate Customer’s request;
- E. WHEREAS, PacifiCorp has determined that to accommodate Lehi’s request, certain upgrades will be required to the Eagle Mountain substation (the “Project”), as further described and detailed in this Agreement; and
- F. WHEREAS, PacifiCorp has agreed to perform the work required to complete the upgrades according to the terms set forth herein.

NOW THEREFORE, the Parties enter into this Agreement with the understanding that each mutually benefits from this Agreement. The parties further agree to the following:

1. DEFINITIONS

Direct Assignment Facilities shall mean facilities or portions of facilities that are constructed by Company for the sole use/benefit/betterment of the Customer requesting service. Direct Assignment Facilities refers to those facilities from the Customer’s facilities up to (but not including) the point of interconnection with the Company’s

Transmission System. Direct Assignment Facilities shall be specified in this Agreement. The Customer will not recover the costs of Direct Assignment Facilities from Company.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Interconnection Facilities means the Company's Interconnection Facilities and the Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Customer's facilities and the point(s) of interconnection, including any modifications, additions or upgrades that are necessary to physically and electrically interconnect the Customer's facilities to the Company's Transmission System. Interconnection Facilities are sole use facilities and shall not include Network Upgrades.

Network Upgrades shall mean additions, modifications, and upgrades to Company's Transmission System required at or beyond the point at which the Customer's facilities interconnect with Company's Transmission System for the purpose of accommodating the interconnection of the facilities. Network Upgrades are integrated with and support Company's Transmission System for the general benefit of all users of such transmission system. The cost of Network Upgrades may not be directly assigned to the Customer.

2. TERM & TERMINATION

The term of this Agreement shall commence on the later of the date of this Agreement or another date designated by the Federal Energy Regulatory Commission ("Commission" or "FERC"), if filed at the Commission and accepted for filing ("Effective Date"). This Agreement shall terminate ninety (90) days following: (i) Company's receipt of final payment of actual costs by Customer; or (ii) Company's refund of overpayment to Customer, pursuant to Section 4 of this Agreement. In the event that neither an invoice nor a refund is required, this Agreement shall terminate 90 days following Company's determination of actual costs after completion of construction.

3. SCOPE AND PERFORMANCE OF WORK:

- a. **Project Description and Scope.** The Project will consist of the installation of a new three breaker ring bus switchrack in the existing Eagle Mountain substation. The ring bus will separate the Beef Hollow – Tri-City transmission line. In

addition new protection and control and communications equipment will be installed at the Beef Hollow and Tri-City substations to accommodate the sectionalization of the existing transmission line (the "Project Facilities").

- b. **Company Responsibilities.** Company agrees to the scope of work specifically assigned to the Company in Exhibit B: Scope of Work.
 - c. **Customer Responsibilities.** Customer agrees to the scope of work specifically assigned to the Customer in Exhibit B: Scope of Work.
 - i. **Site Preparation.** Customer will provide site preparation to Company standards, to include: assistance with initial property rights procurement (if required) for the expansion of Eagle Mountain substation. Customer will reimburse Company for any other site preparation work.
 - ii. **Metering.** Metering for Project will be done in accordance with the TSOA between PacifiCorp and UAMPS
4. OWNERSHIP/RESPONSIBILITY FOR COSTS:

4.1 Ownership

Project Facilities ownership will be detailed in Exhibit A: Facilities Definitions. Given that all sites where Project Facilities are located are Company owned, Company ownership will continue

4.2 Estimated Costs

The Company's estimated cost for Company's Scope of Work for the Project Facilities is \$5,864,400, which includes \$109,700 in Direct Assignment Facilities costs and \$5,754,700 in Network Upgrade costs. Direct Assignment Facilities costs are those costs associated with the installation of Direct Assignment Facilities, while Network Upgrade costs are those costs associated with the installation of Network Upgrades.

Direct Assignment Facilities Costs

In consideration of the work to be performed by Company, Customer agrees to pay the estimated Direct Assignment Facilities costs within thirty (30) calendar days date of invoice by Company. A different payment plan may be mutually agreed to by the parties.

Network Upgrade Costs

In consideration of the work to be performed by Company, Customer agrees to pay the estimated Network Upgrade costs within thirty (30) calendar days after invoice by Company. A different payment plan may be mutually agreed to by the parties.

Customer shall be entitled to a cash repayment, equal to the total amount paid to Company, if any, for the Network Upgrades, including any tax gross-up or other tax-related payments associated with Network Upgrades, and not otherwise refunded to Customer. Any repayment shall include interest calculated in accordance with 18 C.F.R. § 35.19a(2)(iii) from the date of any payment for Network Upgrades through the date on which the Customer receives a repayment of such payment pursuant to this Agreement. The repayment shall begin to be made on a dollar-for-dollar basis once the Customer's facility commences commercial operation; full reimbursement shall not extend beyond twenty (20) years from the commercial operation date.

OR

Company may elect to up-front fund the Network Upgrades associated with the Project Facilities. Customer shall not be responsible for funding the costs attributable to Network Upgrades.

Notwithstanding the foregoing, Customer and Company may adopt any alternative payment schedule that is mutually agreeable.

4.3 Payment of Actual Costs

Company will commence work following agreement to pay costs and potentially pay a portion of the estimated project costs as security. Customer shall reimburse Company for the actual cost to complete the work. Following completion of the Project, Company shall calculate its actual costs for the Direct Assignment Facilities completed. Company's actual costs shall include all direct costs plus applicable overheads. Company will forward a copy of the calculation to Customer along with an invoice or a refund for the difference between the estimated and actual cost one hundred twenty (120) calendar days after the project is declared in service. Customer will have thirty (30) calendar days after receiving any invoice to make a payment.

Company shall keep accurate and complete accounting records in support of all cost billings and claims in accordance with generally accepted accounting principles.

5. TAXES

5.1 Customer Payments Not Taxable

The Parties intend that all payments or property transfers made by Customer to Company for the installation of Company's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code ("IRC") and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the IRC and any applicable state income tax laws.

5.2 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Company

Notwithstanding Section 5.1, Customer shall protect, indemnify and hold harmless Company from the cost consequences of any current tax liability imposed against Company as the result of payments or property transfers made by Customer to Company under this Agreement for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Company.

Company shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Customer under this Agreement unless (i) Company has determined, in good faith, that the payments or property transfers made by Customer to Company should be reported as income subject to taxation or (ii) any governmental authority directs Company to report payments or property as income subject to taxation. Customer shall reimburse Company for such costs on a fully grossed-up basis, in accordance with Section 5.3, within thirty (30) calendar days of receiving written notification from Company of the amount due, including detail about how the amount was calculated.

5.3 Tax Gross-up Amount

Customer's liability for the cost consequences of any current tax liability under this Section 5 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Customer will pay Company, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on Company ("Current Taxes") on the excess of (a) the gross income realized by Company as a result of payments or property transfers made by Customer to Company under this Agreement (without regard to any payments under this Article) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit Company to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Company's composite federal and state tax rates at the time the payments or property transfers are received and Company will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Company's anticipated tax depreciation deductions as a result of such payments or property transfers by Company's current weighted average cost of capital. Thus, the formula for calculating Customer's liability to Company pursuant to this Article can be expressed as follows:

(Current Tax Rate x (Gross Income Amount – Present Value of Tax Depreciation))/(1-Current Tax Rate).

5.4 Contests

In the event any governmental authority determines that Company's receipt of payments or property constitutes income that is subject to taxation, Company shall notify Customer, in writing, within thirty (30) calendar days of receiving notification of such determination by a governmental authority.

5.5 Refund

In the event that (a) a private letter ruling is issued to Company which holds that any amount paid or the value of any property transferred by Customer to Company under the terms of this Agreement is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Company in good faith that any amount paid or the value of any property transferred by Customer to Company under the terms of this Agreement is not taxable to Company, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Customer to Company are not subject to federal income tax, or (d) if Company receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Customer to Company pursuant to this Agreement, Company shall promptly refund to Customer the following:

- (i) any payment made by Customer under this Section 5 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon;
- (ii) interest on any amounts paid by Customer to Company for such taxes which Company did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date payment was made by Customer to the date Company refunds such payment to Customer; and
- (iii) with respect to any such taxes paid by Company, any refund or credit Company receives or to which it may be entitled from any governmental authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Company for such overpayment of taxes (including any reduction in interest otherwise payable by Company to any governmental authority resulting from an offset or credit); provided, however, that Company will remit such amount promptly to Customer only after and to the extent that Company has received a tax refund, credit or offset from any governmental authority for any applicable overpayment of income tax related to Company's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

6. PROJECT SCHEDULE:

The Parties shall develop a mutually agreed to schedule for the completion of the Project Facilities during the detailed design phase of the project, which will commence upon the Effective Date and receipt of Customer's payment for the estimated costs of the work. All project schedule milestones shall be best estimates of the Parties at the time the schedule was developed.

Please see Exhibit C: Milestones

7. OPERATION AND MAINTENANCE:

The Parties agree that operation and maintenance of the Project Facilities shall be as described and set forth in a future agreement between the Parties. Specifically, the Parties agree that the Operation and Maintenance ("O&M") Agreement shall be amended and restated, as needed, to contain the Parties' entire agreement as to operation and maintenance responsibilities and cost. The Parties agree to work diligently and in good faith to negotiate and execute such O&M Agreement on or before the completion of construction of the Project.

8. STANDARD OF WORK:

All work performed pursuant to this Agreement by either Party or their agents shall be performed in a good and workmanlike manner in accordance with Good Utility Practice and with any and all prudent and applicable safety and reliability standards.

9. CHANGES:

The Parties may at any time, in writing, mutually agree to changes and/or additions within the general scope of this Agreement or any amendment hereto, direct the omission of or variation in Work, or alter the schedule. If such direction results in a material change in the amount or character of the Work, an equitable adjustment in estimated costs and other such provisions of this Agreement as may be affected shall be made and this Agreement shall be modified in writing accordingly.

No change shall be binding upon the Parties until a change order is executed by each Party which is in writing and expressly states that it constitutes a change order to this agreement. the issuance of information, advice, approvals, or instructions verbally or by an exchange of e-mail or in any other manner short of a writing executed by both parties shall not constitute

an authorized change order pursuant to this provision.

All revisions to this Agreement, if originally filed at FERC, will be filed by Company as a restated agreement.

10. INSPECTION:

Customer may, at its discretion, inspect Company construction work in progress upon reasonable notice and with supervision by Company.

Company may inspect Customer's construction work of Project Facilities being constructed at Customer's expense upon reasonable notice and with Customer supervision. Customer will provide Company with a reasonable schedule of construction to allow inspection coordination. Customer will provide testing results to Company as specified in the technical specifications.

11. TESTING:

Before the new facilities required for the Project are energized, such new facilities shall be tested by Company to ensure their safe and reliable operation in accordance with Good Utility Practice, all applicable FERC, North American Electric Reliability Corporation and Western Electricity Coordinating Council criteria and requirements, and all applicable federal, state, and local law, regulations, and requirements. If testing indicates that modifications are required, Customer shall bear the cost of all such modifications in accordance with the cost allocation in Section 4 above, except to the extent that any such modifications are required as a result of Company's or its agents' or its subcontractors' negligence, willful misconduct, or failure to comply with Good Utility Practice.

12. ACCESS:

Company shall grant Customer and its designees reasonable escorted access to the Project Facilities consistent with such access rights as are established in prior agreements between the Parties, provided that Customer provides Company with reasonable notice and complies with Company's safety and security rules.

13. GOVERNING LAW:

Enforcement or interpretation of this Agreement shall be in the state court of the State of Utah, and all parties hereby submit to the jurisdiction of said court for the stated purpose. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

14. NO PARTNERSHIP:

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

15. NON-ASSIGNABILITY:

PacifiCorp 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. Customer shall not assign its rights, nor delegate its obligations, under this Agreement without the prior written consent of PacifiCorp, and any attempted transfer in violation of this restriction shall be void.

16. PROVISIONAL REMEDIES:

Either party may seek provisional legal remedies, if in such party's judgment such action is necessary to avoid irreparable damage or preserve the status quo.

17. ENTIRE CONTRACT:

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and there are no oral or written understandings, representations or commitments of any kind, express or implied, which are not expressly set forth herein.

18. NOTICES:

Any correspondence regarding this work shall be directed to the appropriate party (or parties) as shown below:

Customer:

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

with copy to:

Phone:
e-mail

PacifiCorp:

PacifiCorp Transmission
Attn: Rachel Matheson
825 NE Multnomah St., Suite 1600
Portland, OR 97232

19. BILLING AND PAYMENT:

Billings and payments shall be sent to the address(es) set out below:

Customer:

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

with copy to:

Phone:
e-mail

20. INDEMNIFICATION:

Customer ("Indemnifying Party") agrees to protect, defend, indemnify and hold harmless the Company, its officers, employees and agents (collectively the "Indemnified Party") against and from any and all liability, suits, loss, damage, claims, actions, costs and expenses of any nature, including court costs and attorney's fees, even if such actions or claims are completely groundless, growing out of injury to or death of the Indemnifying Party or its subcontractors of any tier, their employees, agents or guests, or any other person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the Indemnifying Party's performance of any Work or any of its obligations under the Agreement, except as to injury to persons or damage to

property on the Work site caused by the sole negligence of the Indemnified Party.

The indemnification obligations set forth herein shall not be limited by amounts or types of damages, compensation or benefits payable by or for the Indemnifying Party, contractors, subcontractors, sub-subcontractors, material suppliers or any person or entity for which any of them may be liable, under workers compensation acts, or any disability or employee benefit acts, in the event claims are asserted against persons or entities indemnified under this Paragraph 25 by an employee of the Indemnifying Party, a contractor, a subcontractor, a sub-subcontract or, a material supplier, anyone directly or indirectly employed by any of them or anyone (or for whose acts they may be liable.)

Moreover, at the request of the Indemnified Party, the Indemnifying Party shall defend any action, claim or suit asserting a claim that might be covered by this indemnity. The Indemnifying Party shall pay all costs and expenses that may be incurred by the Indemnified Party in enforcing this indemnity and defense agreement, including attorney's fees actually paid by the Indemnified Party.

21. LIMITATION OF LIABILITY:

Except as otherwise expressly provided in this Agreement, each Party's liability to the other Party for any loss, cost, claim, injury, damage, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as specifically authorized by this Agreement.

22. FORCE MAJEURE:

A Party shall not be subject to any liability or damages for inability to meet its obligations under this Agreement to the extent that such failure shall be due to causes beyond the control of the Party, including, but not limited to the following: (a) the operation and effect of any new or modified rules, regulations and orders promulgated by the Commission, any applicable state public utility commission, any municipality, or any governmental agency of the United States, or subdivision thereof (so long as the claiming party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action); (b) restraining order, injunction or similar decree of any court; (c) any Force Majeure event.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the

Party claiming Force Majeure.

Provided, the Party claiming Force Majeure shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible. Except for the obligation to pay amounts owed when due, time periods for performance obligations of either Party herein shall be extended for the period during which Force Majeure was in effect.

23. SUCCESSORS:

This Agreement will be binding upon the Parties and will inure to the benefit of their respective successors.

24. SEVERABILITY:

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

25. 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.

26. MULTIPLE COUNTERPARTS:

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

27. CONTRACTORS AND SUBCONTRACTORS:

Nothing in this Agreement shall prevent Company or Customer from utilizing the services of any third party contractor or subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that Company and Customer shall require a third party contractor and subcontractor to comply with all applicable

terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such third party contractor and subcontractor.

28. NO THIRD-PARTY BENEFICIARIES:

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

28. SURVIVAL

The provisions of Sections 4, as well as all payment obligations and liabilities incurred before the termination or expiration of this Agreement, will survive its termination or expiration.

29. MODIFICATIONS OR AMENDMENTS

No modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by authorized representative of the Parties.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the day and year first herein above written.

PACIFICORP

UTAH ASSOCIATED MUNICIPAL
POWER SYSTEMS

/s/ Rick Vail

/s/ Marshall Empey

Signature

Signature

Rick Vail

Marshall Empey

Printed Name of Signor

Printed Name of Signor

VP, Transmission

COO

Title of Signor

Title of Signor

10/6/16

Sept. 29, 2016

Date

Date

Exhibit A: Definition of Facilities

Customer Project Facilities

- Includes new customer built and owned 138 kV transmission line between Eagle Mountain substation and new customer substation. Customer to provide a protective device and metering equipment proximal to the Point of Interconnection/Point of Change of Ownership.

Company Project Facilities

- Includes a new three-breaker ring bus at Eagle Mountain substation including a control house and communications equipment. Other facilities include new protection and communications equipment at Beef Hollow substation and Tri-City substation. Integration of the new Customer owned transmission line will require company to relocate structures on both the Eagle Mountain – Sunrise and the Eagle Mountain – Tri-City #1 transmission lines.

Point of Change of Ownership

- The point at which Customer owned transmission line connects to a dead-end structure at the fence-line of Eagle Mountain substation

Point of Interconnection

- The point at which the transmission line to the Customer owned substation connects to the new three breaker ring bus at Eagle Mountain substation.

Exhibit B: Scope of Work

NEW CUSTOMER TRANSMISSION LINE

CUSTOMER IS RESPONSIBLE TO

- Design, procure, install, and own all facilities on the transmission line up to the Point of Change of Ownership
 - Including a protective device and metering equipment proximal to the Point of Change of Ownership (Eagle Mountain)
 - Customer to provide conductor such that Company can terminate the line at a dead-end structure at Eagle Mountain substation

COMPANY IS RESPONSIBLE TO

- Review Customer provided design for final span to Eagle Mountain substation and terminate conductor at dead end structure at Eagle Mountain substation
- Specify required metering and protective equipment to be used on transmission line.

EAGLE MOUNTAIN SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Design, procure, install and own the following improvements to an expanded Eagle Mountain substation:
 - 3 New 138 kV breakers
 - 12 New 138 kV vertical break switches
 - 9 New 138 kV CCVTs
 - 1 New 138 kV SSVT
 - 9 New 138 kV lightning arresters
 - New control house, including
 - 3 New line protection panels
 - 3 New line control panels
 - 1 New annunciator panel
 - New communications package - fiber termination panels, fiber cable, channel bank
 - New check meter package - meters, panel, communications
- Loop in the existing Beef Hollow – Tri City 138kV line into the expanded substation
- Relocate the existing Eagle Mountain – Sunrise 138 kV line to the expanded substation
- Relocate the existing Eagle Mountain – Tri City #1 138 kV line to a new position

BEEF HOLLOW SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Design, procure, install, and own new line protection panel
- Design, procure, install, and own new relay protection communications loop channel bank

TRI-CITY SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Design, procure, install, and own new relay settings and communications circuits

OQUIRRH SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Develop and install new communications line settings for Eagle Mountain substation

Exhibit C: Milestones

Customer signs and funds agreement:	10/01/2016
Company begins engineering	11/01/2016
Customer provides final design information	01/01/2017
Customer provides any permits/property/RoW	03/15/2017
Company begins construction	09/01/2017
Construction complete	12/01/2017
Testing complete	01/10/2018
Energization/In-Service	01/15/2018

Exhibit D: Diagrams

See scanned pdf for image

Diagram of the existing transmission system and after the connection of the Customer's Project

See scanned pdf for image

Communications Diagram

RECEIVED

OCT 06 2016

TRANSMISSION SERVICES
PACIFICORP

PROJECT CONSTRUCTION AGREEMENT
PROJECT TITLE: UAMPS OTP0115

This Project Construction Agreement (the "Agreement") made and entered into this 6th day of October, 2016, between Utah Associated Municipal Power Systems (OTP115), hereinafter called "UAMPS" or "Customer," and *PacifiCorp*, hereinafter called "PacifiCorp" or "Company," is for work to be performed by Company for Customer (hereinafter referred to as the "Project"). Hereinafter, UAMPS and PacifiCorp may be individually referred to as a "Party" or collectively referred to as the "Parties."

RECITALS:

- A. WHEREAS, PacifiCorp is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Utah;
- B. WHEREAS, UAMPS is a joint action agency that provides wholesale electric energy to community-owned member power system load in and around Utah County, Utah;
- C. WHEREAS, UAMPS has requested a project on behalf of the City of ("Lehi"), and which is a party to the Amended and Restated Transmission Service and Operating Agreement ("TSOA") with PacifiCorp;
- D. WHEREAS, Under terms of the TSOA, Lehi has requested additional interconnection(s) at or near Eagle Mountain substation to reliably serve its loads and UAMPS has requested that PacifiCorp perform certain work to accommodate Customer's request;
- E. WHEREAS, PacifiCorp has determined that to accommodate Lehi's request, certain upgrades will be required to the Eagle Mountain substation (the "Project"), as further described and detailed in this Agreement; and
- F. WHEREAS, PacifiCorp has agreed to perform the work required to complete the upgrades according to the terms set forth herein.

NOW THEREFORE, the Parties enter into this Agreement with the understanding that each mutually benefits from this Agreement. The parties further agree to the following:

1. DEFINITIONS

Direct Assignment Facilities shall mean facilities or portions of facilities that are constructed by Company for the sole use/benefit/betterment of the Customer

requesting service. Direct Assignment Facilities refers to those facilities from the Customer's facilities up to (but not including) the point of interconnection with the Company's Transmission System. Direct Assignment Facilities shall be specified in this Agreement. The Customer will not recover the costs of Direct Assignment Facilities from Company.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Interconnection Facilities means the Company's Interconnection Facilities and the Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Customer's facilities and the point(s) of interconnection, including any modifications, additions or upgrades that are necessary to physically and electrically interconnect the Customer's facilities to the Company's Transmission System. Interconnection Facilities are sole use facilities and shall not include Network Upgrades.

Network Upgrades shall mean additions, modifications, and upgrades to Company's Transmission System required at or beyond the point at which the Customer's facilities interconnect with Company's Transmission System for the purpose of accommodating the interconnection of the facilities. Network Upgrades are integrated with and support Company's Transmission System for the general benefit of all users of such transmission system. The cost of Network Upgrades may not be directly assigned to the Customer.

2. TERM & TERMINATION

The term of this Agreement shall commence on the later of the date of this Agreement or another date designated by the Federal Energy Regulatory Commission ("Commission" or "FERC"), if filed at the Commission and accepted for filing ("Effective Date"). This Agreement shall terminate ninety (90) days following: (i) Company's receipt of final payment of actual costs by Customer; or (ii) Company's refund of overpayment to Customer, pursuant to Section 4 of this Agreement. In the event that neither an invoice nor a refund is required, this Agreement shall terminate 90 days following Company's determination of actual costs after completion of construction.

3. SCOPE AND PERFORMANCE OF WORK:

- a. **Project Description and Scope.** The Project will consist of the installation of a new three breaker ring bus switchrack in the existing Eagle Mountain substation. The ring bus will separate the Beef Hollow – Tri-City transmission line. In addition new protection and control and communications equipment will be installed at the Beef Hollow and Tri-City substations to accommodate the sectionalization of the existing transmission line (the “Project Facilities”).
- b. **Company Responsibilities.** Company agrees to the scope of work specifically assigned to the Company in Exhibit B: Scope of Work.
- c. **Customer Responsibilities.** Customer agrees to the scope of work specifically assigned to the Customer in Exhibit B: Scope of Work.
 - i. **Site Preparation.** Customer will provide site preparation to Company standards, to include: assistance with initial property rights procurement (if required) for the expansion of Eagle Mountain substation. Customer will reimburse Company for any other site preparation work.
 - ii. **Metering.** Metering for Project will be done in accordance with the TSOA between PacifiCorp and UAMPS

4. OWNERSHIP/RESPONSIBILITY FOR COSTS:

4.1 Ownership

Project Facilities ownership will be detailed in Exhibit A: Facilities Definitions. Given that all sites where Project Facilities are located are Company owned, Company ownership will continue

4.2 Estimated Costs

The Company’s estimated cost for Company’s Scope of Work for the Project Facilities is \$5,864,400, which includes \$109,700 in Direct Assignment Facilities costs and \$5,754,700 in Network Upgrade costs. Direct Assignment Facilities costs are those costs associated with the installation of Direct Assignment Facilities, while Network Upgrade costs are those costs associated with the installation of Network Upgrades.

Direct Assignment Facilities Costs

In consideration of the work to be performed by Company, Customer agrees to pay the estimated Direct Assignment Facilities costs within thirty (30) calendar days date of invoice by Company. A different payment plan may be mutually

agreed to by the parties.

Network Upgrade Costs

In consideration of the work to be performed by Company, Customer agrees to pay the estimated Network Upgrade costs within thirty (30) calendar days after invoice by Company. A different payment plan may be mutually agreed to by the parties.

Customer shall be entitled to a cash repayment, equal to the total amount paid to Company, if any, for the Network Upgrades, including any tax gross-up or other tax-related payments associated with Network Upgrades, and not otherwise refunded to Customer. Any repayment shall include interest calculated in accordance with 18 C.F.R. § 35.19a(2)(iii) from the date of any payment for Network Upgrades through the date on which the Customer receives a repayment of such payment pursuant to this Agreement. The repayment shall begin to be made on a dollar-for-dollar basis once the Customer's facility commences commercial operation; full reimbursement shall not extend beyond twenty (20) years from the commercial operation date.

OR

Company may elect to up-front fund the Network Upgrades associated with the Project Facilities. Customer shall not be responsible for funding the costs attributable to Network Upgrades.

Notwithstanding the foregoing, Customer and Company may adopt any alternative payment schedule that is mutually agreeable.

4.3 Payment of Actual Costs

Company will commence work following agreement to pay costs and potentially pay a portion of the estimated project costs as security. Customer shall reimburse Company for the actual cost to complete the work. Following completion of the Project, Company shall calculate its actual costs for the Direct Assignment Facilities completed. Company's actual costs shall include all direct costs plus applicable overheads. Company will forward a copy of the calculation to Customer along with an invoice or a refund for the difference between the estimated and actual cost one hundred twenty (120) calendar days after the project is declared in service. Customer will have thirty (30) calendar days after receiving any invoice to make a payment.

Company shall keep accurate and complete accounting records in support of all cost billings and claims in accordance with generally accepted accounting principles.

5. TAXES

5.1 Customer Payments Not Taxable

The Parties intend that all payments or property transfers made by Customer to Company for the installation of Company's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code ("IRC") and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the IRC and any applicable state income tax laws.

5.2 Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Company

Notwithstanding Section 5.1, Customer shall protect, indemnify and hold harmless Company from the cost consequences of any current tax liability imposed against Company as the result of payments or property transfers made by Customer to Company under this Agreement for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Company.

Company shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Customer under this Agreement unless (i) Company has determined, in good faith, that the payments or property transfers made by Customer to Company should be reported as income subject to taxation or (ii) any governmental authority directs Company to report payments or property as income subject to taxation. Customer shall reimburse Company for such costs on a fully grossed-up basis, in accordance with Section 5.3, within thirty (30) calendar days of receiving written notification from Company of the amount due, including detail about how the amount was calculated.

5.3 Tax Gross-up Amount

Customer's liability for the cost consequences of any current tax liability under this Section 5 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Customer will pay Company, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on Company ("Current Taxes") on the excess of (a) the gross income realized by Company as a result of payments or property transfers made by Customer to Company under this Agreement (without regard to any payments under this Article) (the "Gross Income Amount") over (b) the present value of future tax

deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit Company to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Company's composite federal and state tax rates at the time the payments or property transfers are received and Company will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Company's anticipated tax depreciation deductions as a result of such payments or property transfers by Company's current weighted average cost of capital. Thus, the formula for calculating Customer's liability to Company pursuant to this Article can be expressed as follows:

(Current Tax Rate x (Gross Income Amount – Present Value of Tax Depreciation))/(1-Current Tax Rate).

5.4 Contests

In the event any governmental authority determines that Company's receipt of payments or property constitutes income that is subject to taxation, Company shall notify Customer, in writing, within thirty (30) calendar days of receiving notification of such determination by a governmental authority.

5.5 Refund

In the event that (a) a private letter ruling is issued to Company which holds that any amount paid or the value of any property transferred by Customer to Company under the terms of this Agreement is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Company in good faith that any amount paid or the value of any property transferred by Customer to Company under the terms of this Agreement is not taxable to Company, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Customer to Company are not subject to federal income tax, or (d) if Company receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by Customer to Company pursuant to this Agreement, Company shall promptly refund to Customer the following:

- (i) any payment made by Customer under this Section 5 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon;

(ii) interest on any amounts paid by Customer to Company for such taxes which Company did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date payment was made by Customer to the date Company refunds such payment to Customer; and

(iii) with respect to any such taxes paid by Company, any refund or credit Company receives or to which it may be entitled from any governmental authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Company for such overpayment of taxes (including any reduction in interest otherwise payable by Company to any governmental authority resulting from an offset or credit); provided, however, that Company will remit such amount promptly to Customer only after and to the extent that Company has received a tax refund, credit or offset from any governmental authority for any applicable overpayment of income tax related to Company's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

6. PROJECT SCHEDULE:

The Parties shall develop a mutually agreed to schedule for the completion of the Project Facilities during the detailed design phase of the project, which will commence upon the Effective Date and receipt of Customer's payment for the estimated costs of the work. All project schedule milestones shall be best estimates of the Parties at the time the schedule was developed.

Please see Exhibit C: Milestones

7. OPERATION AND MAINTENANCE:

The Parties agree that operation and maintenance of the Project Facilities shall be as described and set forth in a future agreement between the Parties. Specifically, the Parties agree that the Operation and Maintenance ("O&M") Agreement shall be amended and restated, as needed, to contain the Parties' entire agreement as to operation and maintenance responsibilities and cost. The Parties agree to work diligently and in good faith to negotiate and execute such O&M Agreement on or before the completion of construction of the Project.

8. STANDARD OF WORK:

All work performed pursuant to this Agreement by either Party or their agents shall be performed in a good and workmanlike manner in accordance with Good Utility Practice and with any and all prudent and applicable safety and reliability standards.

9. CHANGES:

The Parties may at any time, in writing, mutually agree to changes and/or additions within the general scope of this Agreement or any amendment hereto, direct the omission of or variation in Work, or alter the schedule. If such direction results in a material change in the amount or character of the Work, an equitable adjustment in estimated costs and other such provisions of this Agreement as may be affected shall be made and this Agreement shall be modified in writing accordingly.

No change shall be binding upon the Parties until a change order is executed by each Party which is in writing and expressly states that it constitutes a change order to this agreement. the issuance of information, advice, approvals, or instructions verbally or by an exchange of e-mail or in any other manner short of a writing executed by both parties shall not constitute an authorized change order pursuant to this provision.

All revisions to this Agreement, if originally filed at FERC, will be filed by Company as a restated agreement.

10. INSPECTION:

Customer may, at its discretion, inspect Company construction work in progress upon reasonable notice and with supervision by Company.

Company may inspect Customer's construction work of Project Facilities being constructed at Customer's expense upon reasonable notice and with Customer supervision. Customer will provide Company with a reasonable schedule of construction to allow inspection coordination. Customer will provide testing results to Company as specified in the technical specifications.

11. TESTING:

Before the new facilities required for the Project are energized, such new facilities shall be tested by Company to ensure their safe and reliable operation in accordance with Good Utility Practice, all applicable FERC, North American Electric Reliability Corporation and Western Electricity Coordinating Council criteria and requirements, and all applicable federal, state, and local law, regulations, and requirements. If testing indicates that modifications are required, Customer shall bear the cost of all such modifications in accordance with the cost

allocation in Section 4 above, except to the extent that any such modifications are required as a result of Company's or its agents' or its subcontractors' negligence, willful misconduct, or failure to comply with Good Utility Practice.

12. ACCESS:

Company shall grant Customer and its designees reasonable escorted access to the Project Facilities consistent with such access rights as are established in prior agreements between the Parties, provided that Customer provides Company with reasonable notice and complies with Company's safety and security rules.

13. GOVERNING LAW:

Enforcement or interpretation of this Agreement shall be in the state court of the State of Utah, and all parties hereby submit to the jurisdiction of said court for the stated purpose. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

14. NO PARTNERSHIP:

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

15. NON-ASSIGNABILITY:

PacifiCorp 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. Customer shall not assign its rights, nor delegate its obligations, under this Agreement without the prior written consent of PacifiCorp, and any attempted transfer in violation of this restriction shall be void.

16. PROVISIONAL REMEDIES:

Either party may seek provisional legal remedies, if in such party's judgment such action is necessary to avoid irreparable damage or preserve the status quo.

17. ENTIRE CONTRACT:

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and there are no oral or written understandings, representations or commitments of any kind, express or implied, which are not expressly set forth herein.

18. NOTICES:

Any correspondence regarding this work shall be directed to the appropriate party (or parties) as shown below:

Customer:

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

with copy to:

Phone:
e-mail

PacifiCorp:

PacifiCorp Transmission
Attn: Rachel Matheson
825 NE Multnomah St., Suite 1600
Portland, OR 97232

19. BILLING AND PAYMENT:

Billings and payments shall be sent to the address(es) set out below:

Customer:

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

with copy to:

Phone:

e-mail

20. INDEMNIFICATION:

Customer ("Indemnifying Party") agrees to protect, defend, indemnify and hold harmless the Company, its officers, employees and agents (collectively the "Indemnified Party") against and from any and all liability, suits, loss, damage, claims, actions, costs and expenses of any nature, including court costs and attorney's fees, even if such actions or claims are completely groundless, growing out of injury to or death of the Indemnifying Party or its subcontractors of any tier, their employees, agents or guests, or any other person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the Indemnifying Party's performance of any Work or any of its obligations under the Agreement, except as to injury to persons or damage to property on the Work site caused by the sole negligence of the Indemnified Party.

The indemnification obligations set forth herein shall not be limited by amounts or types of damages, compensation or benefits payable by or for the Indemnifying Party, contractors, subcontractors, sub-subcontractors, material suppliers or any person or entity for which any of them may be liable, under workers compensation acts, or any disability or employee benefit acts, in the event claims are asserted against persons or entities indemnified under this Paragraph 25 by an employee of the Indemnifying Party, a contractor, a subcontractor, a sub-subcontract or, a material supplier, anyone directly or indirectly employed by any of them or anyone (or for whose acts they may be liable.)

Moreover, at the request of the Indemnified Party, the Indemnifying Party shall defend any action, claim or suit asserting a claim that might be covered by this indemnity. The Indemnifying Party shall pay all costs and expenses that may be incurred by the Indemnified Party in enforcing this indemnity and defense agreement, including attorney's fees actually paid by the Indemnified Party.

21. LIMITATION OF LIABILITY:

Except as otherwise expressly provided in this Agreement, each Party's liability to the other Party for any loss, cost, claim, injury, damage, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the

other Party for any indirect, special, consequential, or punitive damages, except as specifically authorized by this Agreement.

22. FORCE MAJEURE:

A Party shall not be subject to any liability or damages for inability to meet its obligations under this Agreement to the extent that such failure shall be due to causes beyond the control of the Party, including, but not limited to the following: (a) the operation and effect of any new or modified rules, regulations and orders promulgated by the Commission, any applicable state public utility commission, any municipality, or any governmental agency of the United States, or subdivision thereof (so long as the claiming party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action); (b) restraining order, injunction or similar decree of any court; (c) any Force Majeure event.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Provided, the Party claiming Force Majeure shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible. Except for the obligation to pay amounts owed when due, time periods for performance obligations of either Party herein shall be extended for the period during which Force Majeure was in effect.

23. SUCCESSORS:

This Agreement will be binding upon the Parties and will inure to the benefit of their respective successors.

24. SEVERABILITY:

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

25. 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.

26. MULTIPLE COUNTERPARTS:

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

27. CONTRACTORS AND SUBCONTRACTORS:

Nothing in this Agreement shall prevent Company or Customer from utilizing the services of any third party contractor or subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that Company and Customer shall require a third party contractor and subcontractor to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such third party contractor and subcontractor.

28. NO THIRD-PARTY BENEFICIARIES:

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

28. SURVIVAL

The provisions of Sections 4, as well as all payment obligations and liabilities incurred before the termination or expiration of this Agreement, will survive its termination or expiration.


29. MODIFICATIONS OR AMENDMENTS

No modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by authorized representative of the Parties.

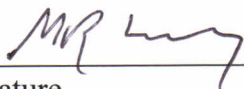
IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the day and year first herein above written.

PACIFICORP

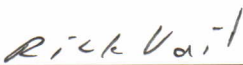
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POWER SYSTEMS




Signature



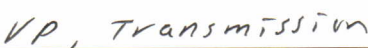
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Printed Name of Signor



Printed Name of Signor



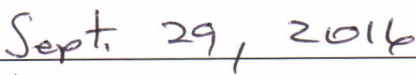
Title of Signor



Title of Signor



Date



Date

Exhibit A: Definition of Facilities

Customer Project Facilities

- Includes new customer built and owned 138 kV transmission line between Eagle Mountain substation and new customer substation. Customer to provide a protective device and metering equipment proximal to the Point of Interconnection/Point of Change of Ownership.

Company Project Facilities

- Includes a new three-breaker ring bus at Eagle Mountain substation including a control house and communications equipment. Other facilities include new protection and communications equipment at Beef Hollow substation and Tri-City substation. Integration of the new Customer owned transmission line will require company to relocate structures on both the Eagle Mountain – Sunrise and the Eagle Mountain – Tri-City #1 transmission lines.

Point of Change of Ownership

- The point at which Customer owned transmission line connects to a dead-end structure at the fence-line of Eagle Mountain substation

Point of Interconnection

- The point at which the transmission line to the Customer owned substation connects to the new three breaker ring bus at Eagle Mountain substation.

Exhibit B: Scope of Work

NEW CUSTOMER TRANSMISSION LINE

CUSTOMER IS RESPONSIBLE TO

- Design, procure, install, and own all facilities on the transmission line up to the Point of Change of Ownership
 - Including a protective device and metering equipment proximal to the Point of Change of Ownership (Eagle Mountain)
 - Customer to provide conductor such that Company can terminate the line at a dead-end structure at Eagle Mountain substation

COMPANY IS RESPONSIBLE TO

- Review Customer provided design for final span to Eagle Mountain substation and terminate conductor at dead end structure at Eagle Mountain substation
- Specify required metering and protective equipment to be used on transmission line.

EAGLE MOUNTAIN SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Design, procure, install and own the following improvements to an expanded Eagle Mountain substation:
 - 3 New 138 kV breakers
 - 12 New 138 kV vertical break switches
 - 9 New 138 kV CCVTs
 - 1 New 138 kV SSVT
 - 9 New 138 kV lightning arresters
 - New control house, including
 - 3 New line protection panels
 - 3 New line control panels
 - 1 New annunciator panel
 - New communications package - fiber termination panels, fiber cable, channel bank
 - New check meter package - meters, panel, communications
- Loop in the existing Beef Hollow – Tri City 138kV line into the expanded substation
- Relocate the existing Eagle Mountain – Sunrise 138 kV line to the expanded substation
- Relocate the existing Eagle Mountain – Tri City #1 138 kV line to a new position

BEEF HOLLOW SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Design, procure, install, and own new line protection panel
- Design, procure, install, and own new relay protection communications loop channel bank

TRI-CITY SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Design, procure, install, and own new relay settings and communications circuits

OQUIRRH SUBSTATION

CUSTOMER IS RESPONSIBLE TO

- No work required

COMPANY IS RESPONSIBLE TO

- Develop and install new communications line settings for Eagle Mountain substation

Exhibit C: Milestones

Customer signs and funds agreement:	10/01/2016
Company begins engineering	11/01/2016
Customer provides final design information	01/01/2017
Customer provides any permits/property/RoW	03/15/2017
Company begins construction	09/01/2017
Construction complete	12/01/2017
Testing complete	01/10/2018
Energization/In-Service	01/15/2018

Exhibit D: Diagrams

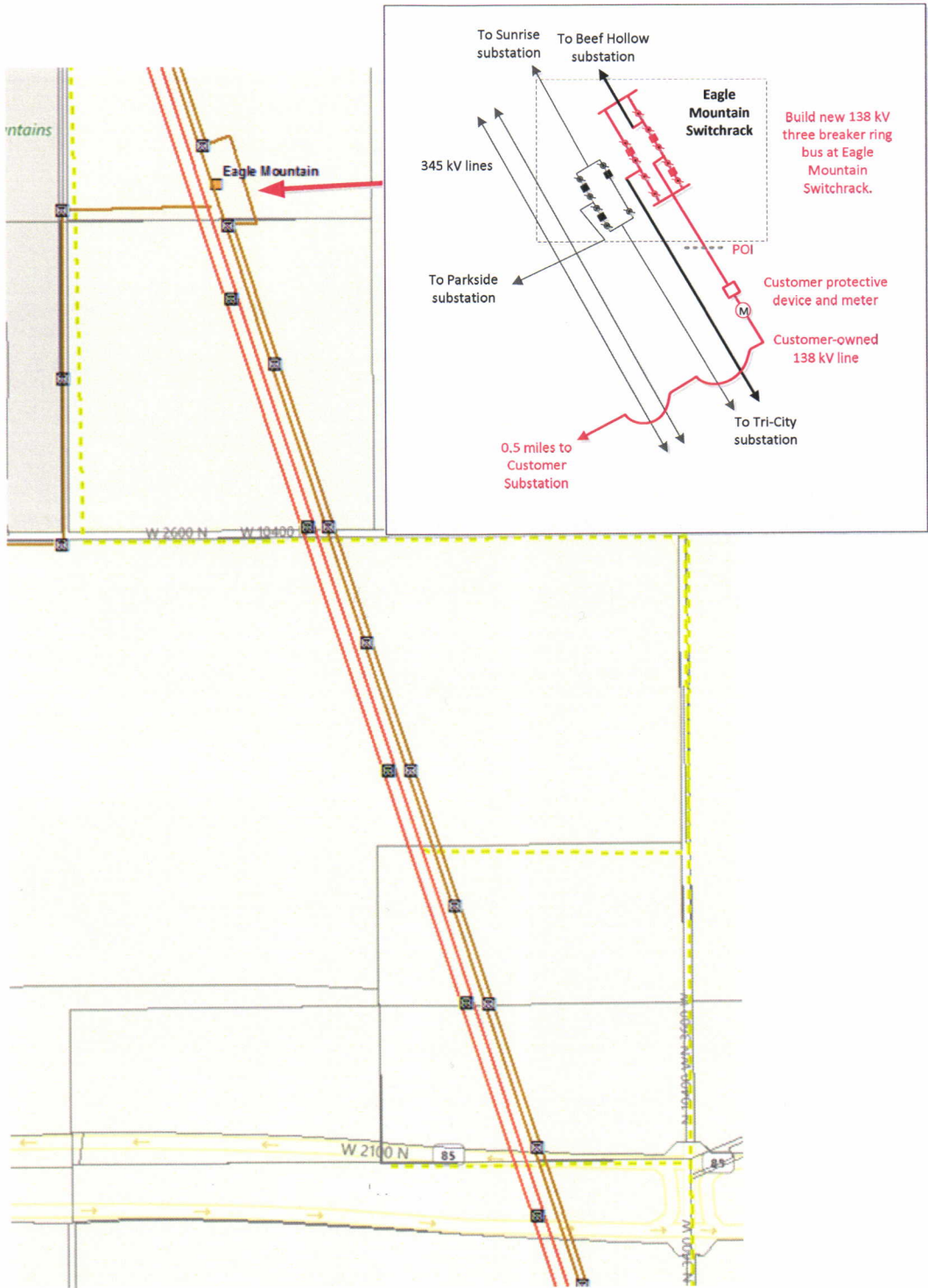
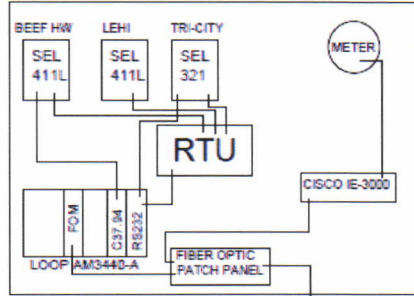
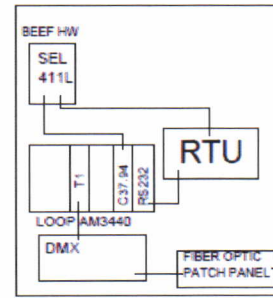


Diagram of the existing transmission system and after the connection of the Customer's Project

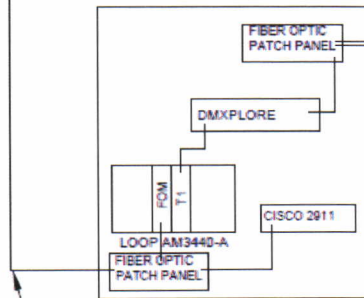
EAGLE MTN SUBSTATION (NEW CONTROL HOUSE)



BEEF HOLLOW SUBSTATION



EAGLE MTN SUBSTATION (EXISTING CONTROL HOUSE)

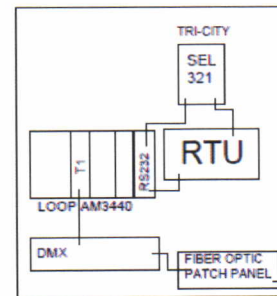


NEW 48 SM ADSS

EXISTING OPGW

NEW PROTECTION
CIRCUITS

TRI-CITY SUBSTATION



Communications Diagram