

December 21, 2018

VIA ETARIFF

Ms. Kimberly D. Bose
Secretary of the Commission
Federal Energy Regulatory Commission
Room 11G-1
888 First Street, NE
Washington, DC 20426

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act¹ and Part 35 of the regulations of the Federal Energy Regulatory Commission (“Commission”),² PacifiCorp hereby tenders for filing the following agreement:

Project Construction Agreement UAMPS – Morgan Temporary Transmission Tap – OTP Q0142 (“Agreement”) between Utah Associated Municipal Power Systems (“UAMPS”) and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 742 under PacifiCorp’s “Transmission Rate Schedules” title in eTariff.

As discussed further below, the Agreement governs PacifiCorp’s construction of a temporary tap line and the provision of temporary service from PacifiCorp’s Morgan City substation to UAMPS member Morgan City’s new Island Road substation. PacifiCorp respectfully requests that the Commission establish an effective date of December 24, 2018 for the Construction Agreement.

I. Background

PacifiCorp and UAMPS are parties to a Transmission Service and Operating Agreement, dated August 20, 2014, and designated as PacifiCorp Rate Schedule No. 297 (“TSOA”), pursuant to which PacifiCorp provides UAMPS use of PacifiCorp’s transmission system for service to UAMPS members, including Morgan City. On behalf of Morgan City, UAMPS has requested a 46 kV point of delivery for service under the TSOA at the Island Road substation, which was recently constructed by Morgan City adjacent to PacifiCorp’s Morgan City substation; this replaces a previous point of delivery. Until the permanent facilities for this point of delivery are complete and in service, PacifiCorp has agreed to provide temporary service via a

1 16 U.S.C. § 824d (2012).

2 18 C.F.R. Part 35 (2018).

tap line from PacifiCorp's Morgan City substation to Morgan City at the Island Road substation. PacifiCorp has entered into similar temporary arrangements with UAMPS in the past.³

II. Description of Filing

The Agreement governs PacifiCorp's construction of, and service from, a temporary tap line, which will run from PacifiCorp's Morgan City substation to UAMPS member Morgan City's new adjacent Island Road substation. Section 2 of the Agreement provides that the term of the agreement begins on the later of the date of execution or another date designated by the Commission. Section 3 of the Agreement provides that PacifiCorp, at its sole expense, shall: procure and install a tap line from the Weber to Morgan 46 kV line between switches 40A and 43A to the new A-frame structure located in the Island Road substation; interconnect the Project Facilities to PacifiCorp's facilities to enable load service at the Island Road substation; and remove the Project Facilities upon completion and utilization of the new point of delivery. Under Section 4 of the Agreement, PacifiCorp agrees that it shall own and maintain the Project Facilities and shall be responsible for all costs incurred for the work under Section 3 of the agreement.

The remaining commercial terms are provided in Sections 5 through 33 of the Agreement.

III. Additional Information

A. Requested Effective Date; Waiver

PacifiCorp respectfully requests waiver of the Commission's prior notice requirement⁴ to permit an effective date of December 24, 2018 for the Agreement. The Commission has found that good cause exists to grant waiver of the prior notice requirement for "uncontested filings that do not change rates."⁵ The Agreement does not affect rates because PacifiCorp is not charging UAMPS under the Agreement. Moreover, granting waiver of the prior notice requirement would allow PacifiCorp to accommodate UAMPS's request for PacifiCorp to provide service as soon as possible. Accordingly, good cause exists to permit an effective date of December 24, 2018 for the 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 See PacifiCorp, UAMPS Construction Agmt - Lehi Temp Tap, Docket No. ER16-2472-000 (Aug. 24, 2016).

⁴ 18 C.F.R. § 35.3(a)(1) (2018).

⁵ *Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,338 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992).

B. Designation and Enclosures

PacifiCorp requests that the Agreement be designated as PacifiCorp Rate Schedule No. 742 under PacifiCorp’s “Transmission Rate Schedules” title in eTariff.

In addition to this transmittal letter, this filing includes the following enclosures:

- Enclosure 1 Project Construction Agreement UAMPS – Morgan Temporary Distribution Tap – OTP Q0142 between UAMPS and PacifiCorp, designated as PacifiCorp Rate Schedule No. 742, for submission in eTariff
- Enclosure 2 Executed copy of Project Construction Agreement UAMPS – Morgan Temporary Distribution Tap – OTP Q0142 between UAMPS and PacifiCorp, for submission in eLibrary

C. Communications

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

Thomas C. Woodworth
Assistant General Counsel
PacifiCorp
825 N.E. Multnomah, Suite 1800
Portland, OR 97232
(503) 813-5356
(503) 813-7252 (facsimile)
Tom.Woodworth@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

D. Service

Pursuant to 18 C.F.R. § 35.2(e), 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

IV. Conclusion

WHEREFORE, PacifiCorp respectfully requests that the Commission accept the Construction Agreement, and grant waiver as requested herein to permit an effective date of December 24, 2018.

Respectfully submitted,

/s/ Thomas C. Woodworth

Thomas C. Woodworth
Attorney for PacifiCorp

PROJECT CONSTRUCTION AGREEMENT
PROJECT TITLE: UAMPS – MORGAN TEMPORARY TRANSMISSION TAP –
OTP Q0142

This Project Construction Agreement (the “Agreement”) made and entered into this 20th day of December, 2018, between Utah Associated Municipal Power Systems (“UAMPS” or “Customer”) and PacifiCorp (“PacifiCorp” or “Company”) is for work to be performed by Company for Customer. 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 municipal electric utility serving load in Utah;
- C. WHEREAS, PacifiCorp and UAMPS are parties to a Transmission Service and Operating Agreement, dated August 20, 2014, and designated as PacifiCorp Rate Schedule No. 297 (the “UAMPS TSOA”), pursuant to which PacifiCorp provides UAMPS use of PacifiCorp’s transmission system for service to UAMPS members.
- D. WHEREAS, UAMPS member Morgan City has constructed a new substation (“Island Road”) adjacent to the PacifiCorp Morgan City Substation;
- E. WHEREAS, PacifiCorp has performed and provided to UAMPS a system impact and facilities study (“OTP Q0142 SIFS”) to accommodate UAMPS’ request for a new 46 kV point of delivery at the Island Road substation (the “New POD Project”); and
- F. WHEREAS, while work on the New POD Project is ongoing, PacifiCorp has agreed to provide a temporary transmission-level tap from PacifiCorp’s Morgan City substation to Morgan City at the Island Road substation to enable UAMPS to obtain load service on a temporary basis (the “Project Facilities”) subject to the terms of Section 2 and this Agreement;
- G. WHEREAS, PacifiCorp has determined that to accommodate the Project Facilities, certain construction and coordination between the Parties will be required (the “Project”), as further described and detailed in this Agreement; and
- H. WHEREAS, PacifiCorp has agreed to perform the work required to complete the Project 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

Except as otherwise defined in the Agreement, capitalized terms in this Agreement shall have the following meanings:

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.

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 on the earlier of:

- a. Twelve (12) months after the Effective Date, unless extended by mutual agreement;
or
- b. Ninety (90) days after completion of construction, and initiation of service, for the New POD Project and removal of the Project Facilities.

3. PROJECT SCOPE AND PERFORMANCE OF WORK:

Subject to the provisions in Section 2, UAMPS may take load service from the Project Facilities while the Parties work together to procure and construct the New POD Project and obtain all necessary easements and rights of way as identified in the OTP Q0142

SIFS and as consistent with PacifiCorp's ability to serve its own customers in the same region.

3.1 **Project Description and Scope:** The Company, at its sole expense, shall:

- a. Procure and install the Project Facilities, as defined in the Recitals and as further specified here: a 2 span tap line from the Weber to Morgan 46 kV line between switches 40A and 43A to the new A-frame structure located in the Island Road substation;
- b. Interconnect the Project Facilities to the Company's transmission system;
- c. Allow for load service from the Project Facilities and settle all service taken from the Project Facilities under the terms of the UAMPS TSOA; and
- d. Remove the Project Facilities upon completion and utilization of the New POD Project.

4. OWNERSHIP/RESPONSIBILITY FOR COSTS:

4.1 Ownership

Company shall own and maintain all assets identified in Section 3.1 of this Agreement.

4.2 Cost Allocation

Company shall be responsible for all costs incurred for the work in Section 3.

5. PROJECT SCHEDULE:

The Parties shall develop a mutually agreed-upon schedule for the completion of the Project and any Project schedule milestones shall be best estimates of the Parties at the time the schedule was developed.

6. 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.

7. 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 the Project scope of work in Section 3, or alter the schedule. If such direction results in a material change in the amount or character of the Project scope of work in Section 3, an equitable adjustment in estimated time and other such provisions of this Agreement as may be affected shall be made and this Agreement shall be modified in writing accordingly.

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

8. TESTING:

Before the Project Facilities are energized, such Project 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, Company shall make such modifications at its expense to the extent consistent with the Project scope of work in Section 3.

9. ACCESS:

Customer shall grant Company and its designees reasonable escorted access to the Island Road substation and the Project Facilities as necessary and consistent with Company's obligations under this Agreement, provided that Company provides Customer with reasonable notice and complies with Customer's safety and security rules.

10. GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the State of Utah unless preempted by the Federal Power Act or other federal law.

11. 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.

12. 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.

13. 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.

14. 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.

15. NOTICES:

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

Customer:

Marshall Empey
Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, UT 84103
Phone: 801-214-6405
e-mail marshall@uamps.com

PacifiCorp:

Rachel Matheson
Attn: PacifiCorp Transmission Services
825 NE Multnomah St., Suite 1600
Portland, OR 97232
Phone: 801-220-2534
e-mail Rachel.Matheson@PacifiCorp.com

16. BILLING AND PAYMENT:

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

Customer:

Marshall Empey
Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, UT 84103
Phone: 801-214-6405

with a copy by e-mail to: marshall@uamps.com

17. INDEMNIFICATION:

Customer agrees to protect, defend, indemnify and hold harmless the Company, its officers, employees and agents 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 any person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the performance of any activities by Customer subject to or related to this Agreement, except as to injury to persons or damage to property caused by the gross negligence of the Company.

The Company agrees to protect, defend, indemnify and hold harmless Customer its officers, employees and agents 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 any person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the performance of any activities by the Company subject to or related to this Agreement, except to the extent such liability, suits, loss, damage, claims, actions, costs and expenses are caused by the sole gross negligence of Customer.

18. 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.

19. 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 FERC, 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.

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.

20. SUCCESSORS:

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

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. SURVIVAL:

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

27. 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.

28. RECITALS. The above stated recitals are incorporated into and made part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

29. WAIVER. Waiver of any right, privilege, claim, obligation, condition, or default shall be

in writing and signed by the waiving Party. No waiver by a Party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach, and no waiver by a party of any right under this Agreement shall be construed as a waiver of any other right.

30. DISPUTE RESOLUTION.

- a. Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in a Federal court under Federal law.
- b. Arbitration Procedures. Any arbitration initiated under these procedures shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.
- c. Arbitration Decisions. Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute

Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service.

- d. Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by 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/ Rachel Matheson
Signature

/s/ Marshall Empey
Signature

Rachel Matheson
Printed Name of Signor

Marshall Empey
Printed Name of Signor

Title of Signor

COO
Title of Signor

2018.12.20
Date

Dec. 20, 2018
Date

PROJECT CONSTRUCTION AGREEMENT
PROJECT TITLE: UAMPS – MORGAN TEMPORARY TRANSMISSION TAP –
OTP Q0142

This Project Construction Agreement (the “Agreement”) made and entered into this ~~28~~²⁹ day of December, 2018, between Utah Associated Municipal Power Systems (“UAMPS” or “Customer”) and PacifiCorp (“PacifiCorp” or “Company”) is for work to be performed by Company for Customer. 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 municipal electric utility serving load in Utah;
- C. WHEREAS, PacifiCorp and UAMPS are parties to a Transmission Service and Operating Agreement, dated August 20, 2014, and designated as PacifiCorp Rate Schedule No. 297 (the “UAMPS TSOA”), pursuant to which PacifiCorp provides UAMPS use of PacifiCorp’s transmission system for service to UAMPS members.
- D. WHEREAS, UAMPS member Morgan City has constructed a new substation (“Island Road”) adjacent to the PacifiCorp Morgan City Substation;
- E. WHEREAS, PacifiCorp has performed and provided to UAMPS a system impact and facilities study (“OTP Q0142 SIFS”) to accommodate UAMPS’ request for a new 46 kV point of delivery at the Island Road substation (the “New POD Project”); and
- F. WHEREAS, while work on the New POD Project is ongoing, PacifiCorp has agreed to provide a temporary transmission-level tap from PacifiCorp’s Morgan City substation to Morgan City at the Island Road substation to enable UAMPS to obtain load service on a temporary basis (the “Project Facilities”) subject to the terms of Section 2 and this Agreement;
- G. WHEREAS, PacifiCorp has determined that to accommodate the Project Facilities, certain construction and coordination between the Parties will be required (the “Project”), as further described and detailed in this Agreement; and
- H. WHEREAS, PacifiCorp has agreed to perform the work required to complete

the Project 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

Except as otherwise defined in the Agreement, capitalized terms in this Agreement shall have the following meanings:

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.

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 on the earlier of:

- a. Twelve (12) months after the Effective Date, unless extended by mutual agreement; or
- b. Ninety (90) days after completion of construction, and initiation of service, for the New POD Project and removal of the Project Facilities.

3. PROJECT SCOPE AND PERFORMANCE OF WORK:

Subject to the provisions in Section 2, UAMPS may take load service from the Project Facilities while the Parties work together to procure and construct the New

POD Project and obtain all necessary easements and rights of way as identified in the OTP Q0142 SIFS and as consistent with PacifiCorp's ability to serve its own customers in the same region.

3.1 **Project Description and Scope:** The Company, at its sole expense, shall:

- a. Procure and install the Project Facilities, as defined in the Recitals and as further specified here: a 2 span tap line from the Weber to Morgan 46 kV line between switches 40A and 43A to the new A-frame structure located in the Island Road substation;
- b. Interconnect the Project Facilities to the Company's transmission system;
- c. Allow for load service from the Project Facilities and settle all service taken from the Project Facilities under the terms of the UAMPS TSOA; and
- d. Remove the Project Facilities upon completion and utilization of the New POD Project.

4. OWNERSHIP/RESPONSIBILITY FOR COSTS:

4.1 Ownership

Company shall own and maintain all assets identified in Section 3.1 of this Agreement.

4.2 Cost Allocation

Company shall be responsible for all costs incurred for the work in Section 3.

5. PROJECT SCHEDULE:

The Parties shall develop a mutually agreed-upon schedule for the completion of the Project and any Project schedule milestones shall be best estimates of the Parties at the time the schedule was developed.

6. 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.

7. 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 the Project scope of work in Section 3, or alter the schedule. If such direction results in a material change in the amount or character of the Project scope of work in Section 3, an equitable adjustment in estimated time and other such provisions of this Agreement as may be affected shall be made and this Agreement shall be modified in writing accordingly.

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

8. TESTING:

Before the Project Facilities are energized, such Project 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, Company shall make such modifications at its expense to the extent consistent with the Project scope of work in Section 3.

9. ACCESS:

Customer shall grant Company and its designees reasonable escorted access to the Island Road substation and the Project Facilities as necessary and consistent with Company's obligations under this Agreement, provided that Company provides Customer with reasonable notice and complies with Customer's safety and security rules.

10. GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the State of Utah unless preempted by the Federal Power Act or other federal law.

11. 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.

12. 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.

13. 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.

14. 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.

15. NOTICES:

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

Customer:

Marshall Empey
Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, UT 84103
Phone: 801-214-6405
e-mail marshall@uamps.com

PacifiCorp:

Rachel Matheson
Attn: PacifiCorp Transmission Services
825 NE Multnomah St., Suite 1600
Portland, OR 97232
Phone: 801-220-2534
e-mail Rachel.Matheson@PacifiCorp.com

16. BILLING AND PAYMENT:

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

Customer:

Marshall Empey
Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, UT 84103
Phone: 801-214-6405

with a copy by e-mail to: marshall@uamps.com

17. INDEMNIFICATION:

Customer agrees to protect, defend, indemnify and hold harmless the Company, its officers, employees and agents 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 any person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the performance of any activities by Customer subject to or related to this Agreement, except as to injury to persons or damage to property caused by the gross negligence of the Company.

The Company agrees to protect, defend, indemnify and hold harmless Customer its officers, employees and agents 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 any person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the performance of any activities by the Company subject to or related to this Agreement, except to the extent such liability, suits, loss, damage, claims, actions, costs and expenses are caused by the sole gross negligence of Customer.

18. 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.

19. 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 FERC, 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.

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.

20. SUCCESSORS:

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

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. SURVIVAL:

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

27. 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.

28. RECITALS. The above stated recitals are incorporated into and made part of this

Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

29. **WAIVER.** Waiver of any right, privilege, claim, obligation, condition, or default shall be in writing and signed by the waiving Party. No waiver by a Party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach, and no waiver by a party of any right under this Agreement shall be construed as a waiver of any other right.

30. **DISPUTE RESOLUTION.**

- a. Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in a Federal court under Federal law.
- b. Arbitration Procedures. Any arbitration initiated under these procedures shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.
- c. Arbitration Decisions. Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) days of appointment and shall notify the Parties in writing of such decision and the reasons

therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service.

- d. Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by 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

Rache Digitally
Signature signed by
Rachel
Printed Name of Signor **Matheson**
Mathe Date:
Title of Signor **2018.12.20**
son **17:50:50**
Date **-07'00'**

M. J. King
Signature
MARSHALL EMPER
Printed Name of Signor
COO
Title of Signor
Dec. 20, 2018
Date