



November 7, 2022

#### VIA ETARIFF

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

RE: *PacifiCorp* Docket No. ER23--000

Dear Secretary Bose:

Pursuant to Federal Power Act Section 205, 16 U.S.C. § 824d, and Section 35.13 of the Rules and Regulations of the Federal Energy Regulatory Commission ("Commission" or "FERC") and Order No. 7142 regarding electronic filing of tariff submittals, PacifiCorp hereby tenders for filing the following agreement:

Transmission Interconnection Agreement, among Tri-State Generation and Transmission Association, Inc. ("Tri-State") and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 775 ("Interconnection Agreement").

As discussed further below, PacifiCorp respectfully requests the Commission accept this Interconnection Agreement effective on January 7, 2023.

#### 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. Tri-State is a member cooperative, which owns and operates certain facilities for the transmission of electric power and energy located in Colorado and surrounding areas.

PacifiCorp is constructing a new substation (the "Heward Substation") near Tri-State's Difficulty substation. As a part of the new Heward Substation, PacifiCorp requested an interconnection between it and Tri-State's transmission systems, in particular from the Difficulty substation interconnection into the Heward-Difficulty 230 kV bus tie. On October 31, 2022, PacifiCorp and Tri-State, entered into the Interconnection Agreement to facilitate the requested The Interconnection Agreement is being filed with the Commission for interconnection. acceptance.

<sup>&</sup>lt;sup>1</sup> 18 C.F.R. § 35.13 (2021).

<sup>&</sup>lt;sup>2</sup> Electronic Tariff Filings, Order No. 714, 124 FERC  $\P$  61,270 (2008).

### 2. Effective Date and Request for Waiver

PacifiCorp requests as effective date of January 7, 2023, for the Interconnection 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 respectfully requests that the Interconnection Agreement be designated as PacifiCorp Rate Schedule No. 775.

#### 4. Enclosure

The following enclosure is attached hereto:

Interconnection Agreement between Tri-State and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 775.

#### 5. Communications

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

Matthew P. Loftus
Assistant General Counsel
PacifiCorp

#### 6. Notice

Pursuant to 18 C.F.R. § 35.2(e), a copy of this filing is being served on the following:

Mary Ann Zehr Tri-State Generation and Transmission Association, Inc. 1100 W. 116<sup>th</sup> Ave. Westminster, CO 80234 mzehr@tristategt.org Utah Public Service Commission Heber M. Wells Building 160 East 300 South Salt Lake City, UT 84114 psc@utah.gov

### 7. Conclusion

For the reasons described herein, PacifiCorp respectfully requests that the Commission accept the Interconnection Agreement for filing with an effective date of January 7, 2023.

Respectfully submitted,

Matthew Loftus

Assistant General Counsel

PacifiCorp

#### TRANSMISSION INTERCONNECTION AGREEMENT

This Transmission Interconnection Agreement ("Agreement") is entered into as of this <a href="31st\_day-of\_October\_">31st\_day-of\_October\_</a>, 2022 between Tri-State Generation and Transmission Association, Inc., a Colorado cooperative corporation ("Tri-State") and PacifiCorp, an Oregon corporation ("PacifiCorp"). PacifiCorp and Tri-State may each be referred to herein individually as "Party" and collectively as "Parties."

#### **WITNESSETH**

- A. WHEREAS, PacifiCorp is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Wyoming;
- B. WHEREAS, Tri-State is a member cooperative which owns and operates certain facilities for the transmission of electric power and energy located in Wyoming and surrounding areas;
- C. WHEREAS, PacifiCorp and Tri-State intend to provide for an interconnection point as described in Exhibit A, which shall be constructed pursuant to a Project Construction Agreement to be executed between PacifiCorp and Tri-State (the "Construction Agreement"); and
- D. WHEREAS, as of the Effective Date, the Parties intend this Agreement to govern the transmission interconnection terms and conditions.

NOW, THEREFORE, it is mutually agreed by the Parties hereto as follows:

#### ARTICLE I DEFINITIONS

- 1.1 For purposes of this Agreement:
- (a) The term "Effective Date" shall mean the date on which this Agreement becomes effective pursuant to Article 2 hereof.
- (b) The term "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.

# ARTICLE II EFFECTIVE DATE, TERM, TERMINATION, REGULATORY APPROVAL

- 2.1 <u>Effective Date</u>. This Agreement shall become effective upon the later of (i) the date of execution by the Parties or (ii) the effective date established by the Federal Energy Regulatory Commission ("FERC") upon acceptance of this Agreement for filing ("Effective Date").
- 2.2 Term and Termination. Subject to Section 2.3, this Agreement shall remain in effect for an original term of thirty (30) years from the Effective Date and shall be automatically renewed for each successive one-year period thereafter unless a Party provides written notice to the other Party of its exercise of the option not to renew the term at least one (1) year prior to the date such renewal would otherwise be effective. The Parties may also mutually agree to terminate this Agreement at any time through a written document signed by an authorized representative of each Party. Notwithstanding the above, the termination of this Agreement is subject to acceptance by the FERC, which filing will be made by PacifiCorp in accordance with 18 C.F.R. § 35.15.
- 2.3 Regulatory Approval. If FERC or any other regulatory body having jurisdiction over this Agreement determines that this Agreement, or any part thereof, must be modified, changed, or conditioned in any manner, a Party may, within fifteen (15) days of receipt of notice of such regulatory decision, notify the other Party of its objection to the regulatory modification, change, or condition. Upon receipt of such notice, the Parties shall negotiate in good faith in an attempt to restructure this Agreement in a manner that is mutually satisfactory. In the event the Parties are not able to restructure this Agreement in a manner satisfactory to the Parties, a Party may terminate this Agreement by giving notice to the other Party not later than thirty (30) days after the date on which the order becomes final and no longer subject to appeal.

# ARTICLE III INTERCONNECTION OF POWER SYSTEMS

- 3.1 <u>Points of Interconnection</u>. Exhibit A attached to this Agreement describes the Difficulty substation point of interconnection (a "Point of Interconnection") where PacifiCorp's transmission system interconnects with the Tri-State's transmission system.
- 3.2 <u>Right of Access.</u> PacifiCorp shall permit duly authorized representatives and employees of Tri-State to enter upon its premises for the purpose of (i) inspecting, testing, repairing, renewing or exchanging any of the equipment owned by Tri-State located on PacifiCorp's premises or (ii) performing any work necessary in the performance of this Agreement, in each case, upon reasonable notice to PacifiCorp, at reasonable times and in compliance with Good Utility Practice and PacifiCorp's reasonable rules and regulations.
- 3.3 <u>No Additional Services</u>. This Agreement is only applicable to the physical interconnection of the Parties' transmission systems and does not obligate a Party to receive or provide for any service. Other services provided by PacifiCorp to Tri-State shall be governed by: (1) such other agreements as the Parties may enter into from time to time, and (2) any applicable tariffs.

### ARTICLE IV GENERAL PROVISIONS

- 4.1. <u>Uncontrollable Forces</u>. No Party shall be considered to be in default in performance of any obligation hereunder if failure of performance shall be due to uncontrollable forces; the term "uncontrollable forces" meaning any cause beyond the control of the Party affected, including, but not limited to failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court order or public authority, which by exercise of due foresight such Party could not reasonably have been expected to avoid, and which by exercise of due diligence it shall be unable to overcome. A Party shall not, however, be relieved of liability for failure of performance if such failure be due to causes arising out of its own negligence or to removable or remediable causes which it fails to remove or remedy with reasonable dispatch. Nothing contained herein, however, shall be construed to require a Party to prevent or settle a strike against its will.
- 4.2. <u>Indemnity</u>. Each Party (individually referred to as the "Indemnifying Party") shall at all times indemnify, defend, and hold the other Party, its officers, employees and agents (collectively, the "Indemnified Parties" or "Indemnified Persons") harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the Indemnifying Party's negligent action or inactions of its obligations under this Agreement, except to the extent caused by the negligence or intentional wrongdoing by the Indemnified Party.
- (a) **Indemnified Person**. If an Indemnified Person is entitled to indemnification under this Article 4.2 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 4.2, to assume the defense of such claim, such Indemnified Person may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.
- (b) **Indemnifying Party**. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Person harmless under this Article 4.2, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person's actual loss.
- (c) Indemnity Procedures. Promptly after receipt by an Indemnified Person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 4.2 may apply, the Indemnified Person shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.
  - i. The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the Indemnifying Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the Indemnifying Party, the Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and

- expenses of one additional attorney to represent an Indemnified Person or Indemnified Persons having such differing or additional legal defenses.
- ii. The Indemnified Person shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Person, or there exists a conflict or adversity of interest between the Indemnified Person and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Person, which shall not be reasonably withheld, conditioned or delayed.
- 4.3. **Consequential Damages**. In no event shall either Party be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.
- 4.4. **Insurance**. Each Party shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in the state where the Point of Interconnection is located:
- (a) Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the state in which the Point of Interconnection is located.
- (b) Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- (c) Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.
- (d) Excess Public Liability Insurance over and above the Employers' Liability Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum

- combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.
- (e) The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Public Liability Insurance policies shall name the other Party, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) calendar days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.
- (f) The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.
- (g) The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- (h) The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this Agreement.
- (i) Within ten (10) days following execution of this Agreement, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, each Party shall provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.
- (j) Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Articles 4.3(b) (h) to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade or better by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 4.3(b) (h). For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 4.3(b) (i). In the event that a Party is permitted to self-insure pursuant to this article, it shall notify the other Party that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 4.3 (i).
- (k) The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.

- 4.5. <u>Control and Maintenance of Transmission Systems</u>. Each Party's electric transmission system shall at all times be and remain in the exclusive possession and control of that Party, and this Agreement shall not be construed to grant the other Party any rights of ownership in or possession of said transmission system. Each Party will operate and maintain said transmission system in accordance with Good Utility Practice.
- 4.6. <u>Use of Facilities</u>. Subject to the terms of any other legal obligation, no Party will require a fee or other charge for the transfer of power across its bus facilities covered under this Agreement at interconnection or tap points, unless the fees are specified in an exhibit attached to this Agreement.
- 4.7. <u>Notices</u>. Each Party shall keep the other Party informed in writing of the name and address of its authorized representative under this Agreement and any notice, demand, or request required by this Agreement shall in writing and deemed properly served, given, or made if delivered in person, via nationally recognized courier or sent by registered or certified mail, postage paid, return receipt, to the person so designated as its authorized representative.
- 4.8. <u>Waiver</u>. Any waiver by a Party of its rights with respect to default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any subsequent default or matter. No delay, short of the statutory period of limitations, in asserting or enforcing any right hereunder shall be deemed a waiver of such right.
- 4.9. <u>Assignment</u>. This Agreement shall inure to the benefit of the signatories hereto and each Party agrees that it will not transfer or assign this Agreement or any of its rights hereunder without the prior written consent of the other Party, except transfers by operation of law, consolidation or merger, for the purpose of granting to a secured party a security interest in this Agreement pursuant to a mortgage, indenture or other security instrument, or a sale by one of the Parties of its entire electric utility facilities. Notwithstanding the above, 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:

  (a) Affiliate, or (b) corporation or any other business entity in conjunction with a merger, consolidation, or other business reorganization to which PacifiCorp is a party. An "Affiliate" includes any entity in which Berkshire Hathaway, Inc. owns more than a 5% interest or over which Berkshire Hathaway Inc. exercises management control. Should such assignment take place, PacifiCorp will use reasonable efforts to provide written notice to Tri-State within ten (10) calendar days.
- 4.10. <u>Applicable Regulations</u>. This Agreement is subject to the terms of valid and applicable orders of state or federal regulatory agencies having jurisdiction. This Agreement shall be subject to the laws of the State of Wyoming.
- 4.11. 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 JURYTRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

- 4.12. <u>Amendments</u>. No amendment of this Agreement shall be effective unless in a writing signed by the Parties.
- 4.13. <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which is deemed an original and all of which constitute one and the same instrument. Electronic signatures are deemed originals for purposes of this Agreement.
- 4.14. Dispute Resolution. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement, such Party shall provide the other Party with written notice of the dispute or claim (a "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) calendar 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. 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 at law or in equity.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their respective officers thereunto duly authorized, all as of the day and year first above written.

PACIFICORP

By: Digitally signed by Rick Vail Date: 2022.10.31 05:35:54

Title: Vice President, Transmission

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

By: Mary Ann Z hr (Oct 25, 2022 15:57 CDT)

Title: Vice President, Transmission Business Strategy

#### Exhibit A

## Ownership, Operation and Maintenance of Points of Interconnection

#### HEWARD AND DIFFICULTY SUBSTATIONS.

- (a) <u>Location</u>. 42.348783, -106.231236
- Point of Interconnection ("POI"). PacifiCorp will construct its new Heward substation, (b) immediately adjacent to and, to the west of, Tri-State's existing Difficulty substation. PacifiCorp's Heward substation will include three (3) circuit breakers in a ring bus configuration and no relay protection and control is planned for the Heward substation as shown on Exhibit B, drawing 200652.001. The existing Amasa-Difficulty-Shirley Basin 230 kV transmission line will be rebuilt, removed from Tri-State's Difficulty substation, and rerouted via PacifiCorp's Heward substation to become the Amasa-Heward-Shirley Basin 230 kV transmission line. PacifiCorp will provide a bus connection to the Tri-State 230/69 kV transformer in Tri-State's Difficulty substation. Revenue metering will be installed by PacifiCorp on that bus connection. The POI shall be a motor operated switch designated as switch 9A27. The Heward circuit breakers and motor operated switches including switch 9A27 will be remotely controlled and operated by PacifiCorp. All facilities west of and including switch 9A27, and the revenue metering, will be owned, operated, and maintained by PacifiCorp, PacifiCorp, at its expense, will provide all materials and resources for construction it performs. Tri-State, at PacifiCorp's expense, will provide all materials and resources for construction it performs, including any work within Tri-State's Difficulty Substation. PacifiCorp's Heward substation will be wholly contained within a separate fenced area outside of Tri-State's Difficulty substation. PacifiCorp, at its expense, will reroute the current Difficulty substation access road from Highway 487 to the Heward and Difficulty substations. There will be no direct access between the Heward and Difficulty substations. Tri-State's scope of work will be included in the Construction Agreement, along with which Party will have the responsibility of installing a new access gate to the Difficulty substation, all at PacifiCorp's expense at the location shown on Exhibit B, drawing 201003.001.
- (c) <u>Future Facilities</u>. Should Tri-State modify its plan of service in the future, the Parties shall evaluate the requirements which may result in additional upgrades at Heward or elsewhere in PacifiCorp's system, and Tri-State may be required to pay PacifiCorp for such upgrades.
- (d) <u>Schedule</u>. The anticipated in-service date of the Difficulty substation interconnection into the Heward-Difficulty 230 kV bus tie will be documented in the Construction Agreement.
- (e) Operation and Maintenance.
  - (i) Each Party shall operate and maintain its owned facilities in accordance with Good Utility Practice.
  - (ii) All switching operations shall be coordinated through, and at the direction of PacifiCorp's dispatchers.
- (f) Removal of Heward Substation. If PacifiCorp's Heward substation is decommissioned:
  - (i) The Parties will jointly determine who should remove the facilities that are installed pursuant to this Interconnection Agreement or the Construction Agreement, including those facilities owned by Tri-State;

- (ii) PacifiCorp shall bear the cost of removal of the above-referenced facilities, if PacifiCorp determines decommissioning should be undertaken.
- (iii) Tri-State shall bear the cost of removal of the above-referenced facilities if:
  - 1. Tri-State determines decommissioning should be undertaken; or
  - 2. The decommissioning of the Heward Substation is a result of Tri-State decommissioning of the Difficulty Substation.
- (iv) PacifiCorp and Tri-State shall each pay a portion of the cost of removal of the above-referenced facilities if both Parties mutually determine decommissioning should be undertaken. The portion of costs to be borne by PacifiCorp and Tri-State shall be determined by the Parties at the time the Parties jointly determine that the Heward Substation should be decommissioned.



