

September 28, 2023

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
Second Revised Project Construction Agreement**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act,¹ Part 35 of the Federal Energy Regulatory Commission's ("Commission") regulations,² and Order No. 714 regarding electronic filing of tariff submittals,³ PacifiCorp hereby tenders for filing the following agreement:

Second Revised Project Construction Agreement Project Title: UAMPS - Morgan Temporary Transmission Tap – OTP Q0142 ("Second Revised Construction Agreement") between Utah Associated Municipal Power Systems ("UAMPS") and PacifiCorp, to be designated as Second Revised PacifiCorp Rate Schedule No. 742.

As discussed more fully below, PacifiCorp respectfully requests an effective date of November 28, 2023, which is 61 days from the date of this filing.

1. Background and Reason for Filing

On December 20, 2018, UAMPS and PacifiCorp entered into a Project Construction Agreement UAMPS – Morgan Temporary Transmission Tap ("Original Temporary Transmission Tap Project Construction Agreement"). The Original Temporary Transmission Tap Project Construction Agreement governed PacifiCorp's construction of, and service from, a temporary tap line, which runs from PacifiCorp's Morgan City substation to UAMPS member Morgan City's adjacent Island Road substation (the "Temporary Project Facilities"). On December 21, 2018, PacifiCorp filed the Original Temporary Transmission Tap Project Construction Agreement as PacifiCorp Rate Schedule No. 742, in Docket No. ER19-649. On February 12, 2019, the

1 16 U.S.C. § 824d (2018).

2 18 C.F.R. Part 35 (2022).

3 *Elec. Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *clarified*, Order No. 714-A, 147 FERC ¶ 61,115 (2014).

Commission accepted the Original Temporary Transmission Tap Project Construction Agreement, effective December 24, 2018.⁴

The Original Temporary Transmission Tap Project Construction was subsequently revised by mutual agreement of the parties (the “First Revised Construction Agreement”) to extend the term until ninety days after completion of construction, initiation of service, and removal of the Temporary Project Facilities. PacifiCorp filed with the First Revised Construction Agreement with Commission on October 22, 2019 in in Docket No. ER20-165 as First Revised Rate Schedule No. 742. On November 27, 2019, the Commission issued a letter order accepting the revised agreement, effective December 22, 2019.⁵

UAMPS and PacifiCorp have revised the First Revised Construction Agreement, which allows UAMPS’ member, Morgan City, to continue to use the Temporary Project Facilities until PacifiCorp determines it needs to expand the Morgan City substation or that other work requires the removal of the Temporary Project Facilities. If either of these determinations are made, the Second Revised Construction Agreement sets forth the options that UAMPS can elect to follow, which are: (1) move forward with a new point of delivery project; (2) request interconnection of a tap line to the north of PacifiCorp’s Morgan City substation; or (3) provide interconnection from within UAMPS’ own transmission system. Once UAMPS provides notice to PacifiCorp of its election, PacifiCorp will file a notice of termination of the Section Construction Agreement with the Commission.

2. Requested Effective Date; Waiver

In accordance with 18 C.F.R. § 35.3(a)(1), PacifiCorp respectfully requests the Commission establish an effective date of November 28, 2023, for the Second Revised 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 and Enclosures

PacifiCorp requests that the Second Revised Construction Agreement be designated as Second Revised PacifiCorp Rate Schedule No. 742.

The following enclosures are attached hereto:

- Enclosure 1 Second Revised Construction Agreement between UAMPS and PacifiCorp, to be designated as Second Revised PacifiCorp Rate Schedule No. 742; and
- Enclosure 2 Redline of Second Revised Rate Schedule No. 742 as compared to First Revised Rate Schedule No. 742.

4 *PacifiCorp*, Docket No. ER19-649-000 (Feb.12, 2019) (delegated letter order).

5 *PacifiCorp*, Docket No. ER20-165-000 (Nov. 27, 2019) (delegated letter order).

4. Communications

Correspondence and service regarding this filing should be sent to the following individuals, who should be placed on the official service list in this proceeding:

Matthew Loftus
Assistant General Counsel
PacifiCorp
825 N.E. Multnomah, Suite 2000
Portland, OR 97232
(503) 813-5612
Matthew.Loftus@PacifiCorp.com

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

5. Service

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

Rachel Stanford
Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, UT 84103
rachel@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,



Matthew Loftus
Counsel for PacifiCorp

Enclosure 1
**Second Revised Construction Agreement between UAMPS and PacifiCorp, to be
designated as Second Revised PacifiCorp Rate Schedule No. 742**

SECOND REVISED PROJECT CONSTRUCTION AGREEMENT

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

This Second Revised Project Construction Agreement (the “Agreement”) is made and entered into this 15th day of September, 2023, between Utah Associated Municipal Power Systems (“Customer”) and PacifiCorp (“Company”). Hereinafter, Customer and Company may be individually referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS:

- A. WHEREAS, Company is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Utah;
- B. WHEREAS, Customer is a municipal electric utility serving load in Utah;
- C. WHEREAS, Company and Customer are parties to a Transmission Service and Operating Agreement, dated August 20, 2014 (as amended), and designated as PacifiCorp Rate Schedule No. 297, pursuant to which Company provides Customer use of Company’s transmission system for service to Customer members;
- D. WHEREAS, Customer member Morgan City has constructed a new substation (“Island Road”) on land purchased from and adjacent to Company’s Morgan City substation;
- E. WHEREAS, following delays, Company has performed and provided to Customer a system impact and facilities study (“OTP Q0142 SIFS”) to accommodate Customer’s request for a new 46 kV point of delivery at the Island Road substation (the “New POD Project”);
- F. WHEREAS, on December 20, 2018, the Parties previously entered into a Temporary Transmission Tap Project Construction Agreement with respect to the New POD Project (the “Original Temporary Tap Agreement”), under which Company agreed to provide a temporary transmission-level tap from Company’s Morgan-Mountain Green 46 kV transmission line to Morgan City’s Island Road substation to enable Customer to obtain load service on a temporary basis (the “Temporary Project Facilities”) until the New POD Project could be completed;
- G. WHEREAS, the Original Temporary Tap Agreement was accepted by the Federal Energy Regulatory Commission (the “Commission”) on February 12, 2019 in Docket No. ER19-649;
- H. WHEREAS, the Parties agreed to revise the Original Temporary Tap Agreement pursuant to a Revised Project Construction Agreement dated as of October 17, 2019

(the “First Revised Agreement”), which provided that termination of the First Revised Agreement would occur ninety (90) calendar days after the completion of construction of, and initiation of service for, the New POD Project and removal of the Temporary Project Facilities;

- I. WHEREAS, the First Revised Agreement was accepted by the Commission on November 27, 2019 in Docket No. ER20-165;
- J. WHEREAS, Company completed construction of the Temporary Project Facilities; however, the Customer did not execute a construction agreement for the New POD Project to be constructed; and
- K. WHEREAS, the Parties now desire to revise the First Revised Agreement to extend the duration of Customer’s use of the Temporary Project Facilities, all on the terms and subject to the conditions of this Agreement.

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. [RESERVED]
- 2. TERM & TERMINATION:
 - a. The term of this Agreement shall commence on the later of the following: (i) the date of execution by both Parties, or (ii) the effective date established by the Commission upon acceptance of this Agreement for filing or the approval by the Commission of this Agreement.
 - b. Subject to Section 2(b)(2) below, this Agreement shall terminate upon a determination by Company that Company requires the expansion of Company’s Morgan City substation or the performance of other work that requires removal of the Temporary Project Facilities (the “Triggering Event”):
 - 1. Company, at its sole discretion, will determine if and when the Triggering Event occurs and shall provide Customer with written notice thirty (30) months in advance of the required date for removal of the Temporary Project Facilities (the “Notice”).
 - a. Customer shall have sixty (60) calendar days from the date of the Notice to provide Company with written notice of whether Customer elects to: (i) move forward with the New POD Project, (ii) request interconnection of a tap line to the north of Company’s Morgan City

substation, or (iii) provide interconnection from within Customer's transmission system.

- b. Absent unforeseen circumstances that necessitate the removal of the Temporary Project Facilities at an earlier date (e.g., to maintain reliability or safety of Company's transmission system), Company shall not remove the Temporary Project Facilities earlier than thirty (30) months after the date of the Notice. If unforeseen circumstances arise that require removal of the Temporary Project Facilities earlier than thirty (30) months after the date of the Notice, Company will provide Customer with written notice of such date as soon as reasonably practicable prior to their removal.
 - c. If Customer elects the option set forth in Section 2(b)(1)(a)(i) above (i.e., move forward with the New POD Project):
 - i. Customer and Company agree that the costs of the New POD Project will be split between Customer and Company. Customer shall pay forty-two percent (42%) of such costs and Company shall pay fifty-eight percent (58%) of such costs. Company shall provide Customer with an updated cost estimate for the New POD Project; and
 - ii. Customer and Company shall enter into a new construction agreement with respect to the New POD Project, and such construction agreement will be filed with the Commission for acceptance.
 - d. If Customer elects the option set forth in Section 2(b)(1)(a)(ii) above (i.e., request interconnection of a tap line to the north of Company's Morgan City substation), Customer shall make a request for such interconnection and Company shall treat the request as a request for a new project and follow Company's normal transmission project process, including performance of any new studies that may be required and concurrent acquisition of permits, property and/or right of way for the interconnection tap line.
 - e. If Customer elects the option set forth in Section 2(b)(1)(a)(iii) above (i.e., provide interconnection from within Customer's transmission system), Customer shall provide notice to Company to disconnect its temporary point of delivery at Island Road substation and submit a change to its load and resource forecast within ninety (90) calendar days of the request.
2. Upon Company's receipt of written notice of Customer's election pursuant to Section 2(b)(1)(a), Company shall file a notice of termination of this Agreement with the Commission. Termination of this Agreement shall be contingent upon

the Commission accepting the notice of termination. If Customer does not make an election pursuant to Section 2(b)(1)(a) within sixty (60) calendar days from the date of the Notice, Company shall file a notice of termination of this Agreement with the Commission.

3. PROJECT SCOPE AND PERFORMANCE OF WORK:

Subject to the provisions in Section 2, Customer may take load service from the Temporary Project Facilities consistent with Company's ability to serve its own customers in the same region.

4. OWNERSHIP/RESPONSIBILITY FOR COSTS:

4.1 Ownership.

Company owns and shall maintain the Temporary Project Facilities.

4.2 Cost Allocation.

Company shall be responsible for all costs associated with the ownership and maintenance of the Temporary Project Facilities.

5. CHANGES:

No modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by an authorized representative of each Party. All modifications or amendments to this Agreement will be filed by Company as an amended and restated agreement. All revisions to this Agreement will not be effective unless accepted by the Commission.

6. ACCESS:

Customer shall grant Company and its designees reasonable escorted access to the Island Road substation and the Temporary 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.

7. 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.

8. 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.

9. NON-ASSIGNABILITY:

Company 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 Company 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 Company, and any attempted assignment or delegation in violation of this restriction shall be void.

10. 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.

11. 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.

12. NOTICES:

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

Customer:

Rachel Stanford
Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, UT 84103
Phone: 801-214-6430
Email: rachel@uamps.com

PacifiCorp:

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

13. 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 to the extent such liability, suits, loss, damage, claims, actions, costs and expenses are caused by the gross negligence of the Company.

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 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 gross negligence of Customer.

14. 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.

15. 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.

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.

16. SUCCESSORS:

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

17. 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.

18. 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.**

19. 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.

20. 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.

21. 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.

22. SURVIVAL:

The provisions of Section 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.

23. 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.

24. 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.

25. 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.

26. 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 dispute shall be resolved in accordance with Section 12 of the Company's Open Access Transmission Tariff. For avoidance of doubt, because the Notice

provided by the Company under Section 2(b)(1) of this Agreement is at the Company's sole discretion, it is not subject to the Dispute Resolution process.

[Signature page follows.]

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

Rick Vail

Digitally signed by Rick Vail
Date: 2023.09.15 06:16:28
-07'00'

Signature

Rick Vail

Printed Name of Signor

Vice President, Transmission

Title of Signor

9/15/2023

Date

**Rachel
Stanford**

Signature

Printed Name of Signor

rd

Title of Signor

Date

Digitally signed by Rachel
Stanford

DN: cn=Rachel Stanford
gn=Rachel Stanford c=US
United States l=US United
States o=UAMPS
ou=Managing Director,
Transmission Operations
e=rachel@uamps.com
Reason: I agree to the
terms defined by the
placement of my signature
in this document
Location:
Date: 2023-09-14
15:39-06:00

Enclosure 2
Redline of Second Revised Rate Schedule No. 742

SECOND REVISED PROJECT CONSTRUCTION AGREEMENT

**PROJECT TITLE: UAMPS – MORGAN TEMPORARY TRANSMISSION TAP –
OTP Q0142**

This Second Revised Project Construction Agreement (the “Agreement”) is made and entered into this

17 15th day of ~~October~~September, ~~2019~~2023, 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, UAMPSCustomer and PacifiCorpCompany may be individually referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS:

- A. WHEREAS, PacifiCorpCompany is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Utah;
- B. WHEREAS, UAMPSCustomer is a municipal electric utility serving load in Utah;
- C. WHEREAS, PacifiCorpCompany and UAMPSCustomer are parties to a Transmission Service and Operating Agreement, dated August 20, 2014 (as amended), and designated as PacifiCorp Rate Schedule No. 297 (~~the “UAMPS TSOA”~~), pursuant to which PacifiCorpCompany provides UAMPSCustomer use of PacifiCorpCompany’s transmission system for service to UAMPSCustomer members.;
- D. WHEREAS, UAMPSCustomer member Morgan City has constructed a new substation (“Island Road”) on land purchased from and adjacent to ~~the~~ PacifiCorpCompany’s Morgan City ~~Substation~~substation;
- E. WHEREAS, PacifiCorpfollowing delays, Company has performed and provided to UAMPSCustomer a system impact and facilities study (“OTP Q0142 SIFS”) to accommodate UAMPSCustomer’s request for a new 46 kV point of delivery at the Island Road substation (the “New POD Project”); ~~and~~
- F. WHEREAS, ~~while work~~ on December 20, 2018, the Parties previously entered into a Temporary Transmission Tap Project Construction Agreement with respect to the New POD Project is ongoing, PacifiCorp has (the “Original Temporary Tap Agreement”), under which Company agreed to provide a temporary transmission-level tap from PacifiCorpCompany’s Morgan ~~City substation~~Mountain Green 46 kV transmission line to Morgan City ~~at the~~’s Island Road substation to

enable UAMPS Customer to obtain load service on a temporary basis (the “Temporary Project Facilities”) ~~subject to~~ until the ~~terms of Section 2 and this Agreement~~ New POD Project could be completed;

~~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;~~

~~H. WHEREAS, PacifiCorp has agreed to perform the work required to complete the Project according to the terms set forth herein;~~

~~I. WHEREAS the Parties entered into an agreement to accommodate the Project Facilities on December 20, 2018 (the “Original Agreement”);~~

~~J. WHEREAS, Section 2 of~~

G. WHEREAS, the Original Temporary Tap Agreement ~~stated the term of the Agreement would be 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.~~ was accepted by the Federal Energy Regulatory Commission (the “Commission”) on February 12, 2019 in Docket No. ER19-649;

~~H. K. WHEREAS, the Parties ~~have mutually~~ agreed to: (1) ~~extend~~ revise the ~~term~~ Original Temporary Tap Agreement pursuant to a Revised Project Construction Agreement dated as of October 17, 2019 (the “First Revised Agreement ~~until Ninety~~”), which provided that termination of the First Revised Agreement would occur ninety (90) calendar days after the completion of construction of, and initiation of service, for, the New POD Project and removal of the Temporary Project Facilities; and (2) revise Section 2 of the Agreement accordingly; and~~

~~L. WHEREAS, other than Section 2, no other terms of~~

I. WHEREAS, the First Revised Agreement was accepted by the Commission on November 27, 2019 in Docket No. ER20-165;

J. WHEREAS, Company completed construction of the Temporary Project Facilities; however, the Customer did not execute a construction agreement for the New POD Project to be constructed; and

K. WHEREAS, the ~~Original~~ Parties now desire to revise the First Revised Agreement ~~are being modified by~~ to extend the duration of Customer's use of the Temporary Project Facilities, all on the terms and subject to the conditions of this Agreement.

NOW THEREFORE, the Parties enter into this Agreement with the understanding that each mutually benefits from this Agreement. The ~~parties~~ 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.~~

1. [RESERVED]

2. TERM & TERMINATION:

a. ~~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 following: (i) the date of execution by both Parties, or (ii) the effective date established by the Commission upon acceptance of this Agreement for filing or the approval by the Commission of this Agreement.

b. Subject to Section 2(b)(2) below, this Agreement shall terminate upon a determination by Company that Company requires the expansion of Company's Morgan City substation or the performance of other work that requires removal of the Temporary Project Facilities (the "Triggering Event");

~~Ninety (90) days after completion of construction, and initiation of service, for the New POD Project and removal of the Project Facilities~~

1. Company, at its sole discretion, will determine if and when the Triggering Event occurs and shall provide Customer with written notice thirty (30) months in advance of the required date for removal of the Temporary Project Facilities (the “Notice”).
 - a. Customer shall have sixty (60) calendar days from the date of the Notice to provide Company with written notice of whether Customer elects to: (i) move forward with the New POD Project, (ii) request interconnection of a tap line to the north of Company’s Morgan City substation, or (iii) provide interconnection from within Customer’s transmission system.
 - b. Absent unforeseen circumstances that necessitate the removal of the Temporary Project Facilities at an earlier date (e.g., to maintain reliability or safety of Company’s transmission system), Company shall not remove the Temporary Project Facilities earlier than thirty (30) months after the date of the Notice. If unforeseen circumstances arise that require removal of the Temporary Project Facilities earlier than thirty (30) months after the date of the Notice, Company will provide Customer with written notice of such date as soon as reasonably practicable prior to their removal.
 - c. If Customer elects the option set forth in Section 2(b)(1)(a)(i) above (i.e., move forward with the New POD Project):
 - i. Customer and Company agree that the costs of the New POD Project will be split between Customer and Company. Customer shall pay forty-two percent (42%) of such costs and Company shall pay fifty-eight percent (58%) of such costs. Company shall provide Customer with an updated cost estimate for the New POD Project; and
 - ii. Customer and Company shall enter into a new construction agreement with respect to the New POD Project, and such construction agreement will be filed with the Commission for acceptance.
 - d. If Customer elects the option set forth in Section 2(b)(1)(a)(ii) above (i.e., request interconnection of a tap line to the north of Company’s Morgan City substation), Customer shall make a request for such interconnection and Company shall treat the request as a request for a new project and follow Company’s normal transmission project process, including performance of any new studies that may be

required and concurrent acquisition of permits, property and/or right of way for the interconnection tap line.

e. If Customer elects the option set forth in Section 2(b)(1)(a)(iii) above (i.e., provide interconnection from within Customer's transmission system), Customer shall provide notice to Company to disconnect its temporary point of delivery at Island Road substation and submit a change to its load and resource forecast within ninety (90) calendar days of the request.

2. Upon Company's receipt of written notice of Customer's election pursuant to Section 2(b)(1)(a), Company shall file a notice of termination of this Agreement with the Commission. Termination of this Agreement shall be contingent upon the Commission accepting the notice of termination. If Customer does not make an election pursuant to Section 2(b)(1)(a) within sixty (60) calendar days from the date of the Notice, Company shall file a notice of termination of this Agreement with the Commission.

3. PROJECT SCOPE AND PERFORMANCE OF WORK:

Subject to the provisions in Section 2, UAMPS Customer may take load service from the Temporary 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 Company'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 owns and shall ~~own and~~ maintain ~~all assets identified in Section 3.1 of this Agreement~~the Temporary Project Facilities.

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~~associated with the ownership and maintenance of the Temporary Project ~~and any Project schedule milestones shall be best estimates of the Parties at the time the schedule was developed~~Facilities.

~~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.~~

5. ~~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.~~

No modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by an authorized representative of each Party. All modifications or amendments to this Agreement will be filed by Company as an amended and restated agreement. All revisions to this Agreement will not be effective unless accepted by the Commission.

6. ~~9.~~ ACCESS:

Customer shall grant Company and its designees reasonable escorted access to the Island Road substation and the Temporary 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.

7. ~~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.

8. ~~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.

9. ~~12.~~ NON-ASSIGNABILITY:

~~PacifiCorp~~Company 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~~Company 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~~Company, and any attempted ~~transfer~~assignment or delegation in violation of this restriction shall be void.

10. ~~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.

11. ~~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.

12. ~~15.~~ NOTICES:

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

Customer:

~~Marshall Empey~~ Rachel Stanford
Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, UT 84103
Phone: ~~801-214-6405~~801-214-6430
~~e-mail-marshall~~Email: rachel@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 _____~~

13. 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~~ to the extent such liability, suits, loss, damage, claims, actions, costs and expenses are 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.

14. ~~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.

15. ~~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~~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.

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.

16. ~~20.~~ SUCCESSORS:

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

17. ~~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.

18. ~~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.**

19. ~~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.

20. ~~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.

21. ~~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.

22. ~~26.~~ SURVIVAL:

The provisions of ~~Sections~~Section 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.

23. ~~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.

24. ~~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.

25. ~~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.

26. ~~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 dispute shall be resolved in accordance with Section 12 of 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.~~ Company's Open Access Transmission Tariff. For avoidance of doubt, because the Notice provided by the Company under Section 2(b)(1) of this Agreement is at the Company's sole discretion, it is not subject to the Dispute Resolution process.

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.~~

[\[Signature page follows.\]](#)