

**WestConnect Planning Participation Agreement
Amended and Restated**

This amended and restated WestConnect Planning Participation Agreement (“Agreement”) supersedes all prior versions of the agreement and sets forth the rights and obligations of the parties to this Agreement to carry out the WestConnect Regional Planning Process developed pursuant to Federal Energy Regulatory Commission Order No. 1000, *et seq.*¹ (“Order No. 1000”) for the WestConnect Planning Region, as approved by the Commission. The Agreement is by and among the parties listed in Exhibit A, which exhibit shall be revised from time to time to reflect new and withdrawn parties. Hereafter, the parties shall be referred to individually as “Party” or “Member” and collectively as “Parties” or “Members.” Other capitalized terms used in this Agreement are defined in Section 3 below.

1. RECITALS

1.1. Historically, WestConnect has participated in both transmission planning activities and other non-transmission activities. Initially, transmission planning activities were pursued in coordination with the transmission planning activities of various subregional planning groups such as the Colorado Coordinated Planning Group (“CCPG”), Sierra Subregional Planning Group (“SSPG”) and Southwest Area Transmission Planning Group (“SWAT”).

1.2. Later, with the issuance by FERC of Order No. 890, Public Utility transmission owners, including those that had participated in WestConnect’s early transmission planning activities, achieved compliance with the transmission planning

¹ *Transmission Planning and Cost allocation by Transmission-Ownning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶61,051, *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

requirements of Order No. 890 by entering into the WestConnect Project Agreement for Subregional Transmission Planning dated May 23, 2007, as amended (“STP Agreement”).

1.3. Pursuant to Order No. 1000, Public Utility transmission owners are required to enroll in an identified region for purposes of complying with FERC’s new regional planning process requirements, and also with FERC’s new requirements governing interregional coordination.

1.4. The Public Utilities that are Parties to this Agreement have chosen to execute the Agreement to achieve compliance with Order No. 1000 through membership in the WestConnect Planning Region.

1.5. The Parties desire to suspend the STP Agreement, to effectuate a seamless transition from the STP Agreement processes into the new regional planning process described herein, and to formalize the Parties’ relationships and establish obligations among them.

1.6. This Agreement creates a WestConnect Order No. 1000 regional transmission Planning Management Committee (the “PMC”), which is responsible for administering the new WestConnect Regional Planning Process.

1.7. The PMC will include Members from State Regulatory Commissions in the Western and Southwestern United States. The State Regulatory Commissions (“SRCs”) are uniquely situated as Members of the PMC and, therefore, no provision in this Agreement shall operate in any way to limit the authority of an SRC over matters within its jurisdiction or bind any SRC to any particular course of action in proceedings outside of the WestConnect Regional Planning Process; and other

Members are also not limited in authority or bound to any course of action in any way for any proceedings, acts or actions outside the purview of this Agreement.

1.8. The WestConnect Regional Planning Process administered by the PMC is an independent, stand-alone process that is conducted pursuant to this Agreement and is not subordinate to or interlinked with any other WestConnect process. The committees formed under the STP Agreement and the WestConnect Steering Committee have no authority over the PMC or the PMC's decision-making in implementing the Regional Planning Process.

2. AGREEMENT

In consideration of the promises and the mutual covenants contained herein, the Parties agree as follows:

3. DEFINITIONS

3.1. Business Practice Manual ("BPM"): The document adopted and updated from time to time by the PMC to describe the WestConnect Regional Planning Process developed for compliance with Order No. 1000.

3.2. Coordinating Transmission Owner ("CTO"): A TOLSO sub-sector Member as defined in Section 6.1.1.2 herein.

3.3. Cost Allocation: The identification of cost responsibility for projects meeting the requirements for being selected in the Regional Transmission Plan for purposes of Order No. 1000 cost allocation.

3.4. Cost Allocation Subcommittee: A standing subcommittee of the PMC. The responsibilities of the Cost Allocation Subcommittee are described in Section 8.4.2 hereof.

69 **3.5. Enrolled Transmission Owner (“ETO”):** A TOLSO sub-sector Member
70 as defined in Section 6.1.1.1 herein.

71 **3.6. Effective Date:** The date on which this Agreement has been executed by at
72 least five Public Utility TOLSO Members, or October 1, 2015, whichever occurs last.

73 **3.7. Expansion Planning Working Group (“EPWG”):** A standing working
74 group of the Planning Subcommittee that will perform benefits analyses and such
75 other functions as defined and directed by the PMC.

76 **3.8. Federal Member:** A Member entity that is an administrative agency
77 within the Executive Branch of the United States Government.

78 **3.9. FERC or Commission:** The Federal Energy Regulatory Commission or its
79 successor organization.

80 **3.10. Finance Agent:** The Member or third-party administrator selected to
81 develop and administer the budget, billing, and accounting for expenses associated
82 with this Agreement.

83 **3.11. Generator Interconnection Agreement (“GIA”):** An agreement for the
84 purpose of interconnection entered into between a Transmission Owner and a
85 Generator Owner or a generation developer. The Transmission Owner and the
86 Generator Owner may be the same legal entity in some circumstances.

87 **3.12. Generator Owner (“GO”):** An entity that owns one or more generating
88 units.

89 **3.13. Governmental Authority:** Any federal, state, municipal, local or other
90 governmental regulatory or administrative agency, court, commission, department,
91 board, or other governmental subdivision, legislature, rulemaking board, tribunal, or
92 other governmental authority having jurisdiction over a Member or Members, their

respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power.

3.14. Legal Subcommittee: A standing subcommittee of the PMC. The responsibilities of the Legal Subcommittee are described in Section 8.4.3 hereof.

3.15. Load Serving Entity (“LSE”): An entity that secures energy and transmission service (and related interconnected operations services) to serve the electrical demand and energy requirements of its end use customers.

3.16. Member: An entity that satisfies the requirements of Sections 5 and 6 of this Agreement.

3.17. Member Sector: A group of Members described in Section 6 hereof.

3.18. NERC: The North American Electric Reliability Corporation or its successor organization.

3.19. Non-Governmental Organization (“NGO”): An organization that has received a determination of tax-exempt status from the Internal Revenue Service (a) under Section 501(c)(3) of the Internal Revenue Code organized and operating exclusively for one of the following purposes: religious, charitable, scientific, testing for public safety, literary or educational; (b) under Section 501(c)(4) of the Internal Revenue Code; or (c) under Section 501(c)(6) of the Internal Revenue Code based upon a determination letter received from the Internal Revenue Service or its self-certification which has been approved by the Internal Revenue Service.

3.20. Non-Public Utility: An entity that is described in Section 201(f) of the Federal Power Act, 16 U.S.C. 824(f), that is engaged in the sale of electric energy at wholesale in interstate commerce or in the transmission of energy in interstate commerce.

117 **3.21. Open Access Transmission Tariff (“OATT”):** The open access
118 transmission tariff of a Public Utility on file with FERC or, if the entity is a Non-
119 Public Utility, the open access transmission tariff of such entity posted on its Open
120 Access Same-Time Information System (“OASIS”).

121 **3.22. Planning Commencement Date:** January 1, 2015, for the one-year
122 abbreviated cycle. January 1, 2016, for the standard biennial planning process.

123 **3.23. Planning Management Committee (“PMC”):** The committee established
124 pursuant to Section 8.1 of this Agreement to administer the WestConnect Regional
125 Planning Process.

126 **3.24. Planning Subcommittee:** A standing subcommittee of the Planning
127 Management Committee. The responsibilities of the Planning Subcommittee are
128 described in Section 8.4.1 hereof.

129 **3.25. Power Flow Working Group (“PFWG”):** A standing working group of the
130 Planning Subcommittee that will perform power flow, voltage, stability, short circuit
131 and transient analyses and such other functions as defined and directed by the PMC.

132 **3.26. Public Utility:** An entity defined in Section 201(e) of the Federal Power Act,
133 16 U.S.C. 824(e).

134 **3.27. Purchasing-Selling Entity (“PSE”):** An entity that purchases and/or sells,
135 and takes title to, energy, capacity and interconnected operations services. PSEs may
136 be affiliated or unaffiliated merchant entities and may or may not own generating
137 facilities.

138 **3.28. Regional Transmission Plan:** The WestConnect Planning Region’s
139 transmission plan that is approved by the PMC every two years as a product of the
140 WestConnect Regional Planning Process.

141 **3.29. State Regulatory Commission (“SRC”):** A Member meeting the criteria set
142 forth in Section 6.1.4 herein.

143 **3.30. Transmission Owner with Load Serving Obligations (“TOLSO”):** A
144 Member meeting the criteria set forth in Section 6.1.1 herein.

145 **3.31. WECC:** The Western Electricity Coordinating Council or its successor
146 organization.

147 **3.32. WECC Regional Planning Project Review Process:** The process set forth
148 in the WECC document “Project Coordination and Path Rating Processes,” approved
149 by the WECC Board of Directors on December 6, 2012, as it may be subsequently
150 revised.

151 **3.33. WestConnect Planning Region:** The electric system topology that
152 consists of transmission facilities in the Western Interconnection owned by TOLSO
153 Members that the TOLSO Members have elected to include in the WestConnect
154 Planning Region.

155 **3.34. WestConnect Regional Transmission Planning and Cost Allocation**
156 **Process (“WestConnect Regional Planning Process”):** The regional transmission
157 planning and cost allocation process developed to comply with Order No. 1000 and
158 approved by FERC for the WestConnect Planning Region, including interregional
159 coordination processes developed among WestConnect and neighboring regions.
160 Specifics of the WestConnect Regional Planning Process are described in Section 7
161 herein.

163 4. **SUSPENSION OF THE STP AGREEMENT FOR SUBREGIONAL**
164 **TRANSMISSION PLANNING**

165
166 To facilitate a smooth transition into the WestConnect Regional Planning Process,
167 the parties to the STP Agreement intend to suspend, but not terminate, the STP
168 Agreement as of the Planning Commencement Date. Suspension will be
169 accomplished by the parties to the STP Agreement through an amendment,
170 supplement, or other appropriate instrument under the STP Agreement. The TOLSO
171 Members later may agree to terminate the STP Agreement under its own terms or
172 withdraw from the STP Agreement, as appropriate.

173 5. **WESTCONNECT PLANNING REGION ENROLLMENT, MEMBER**
174 **SECTOR CHANGES, WITHDRAWAL, AND TERMINATION OF**
175 **AGREEMENT**

176
177 **5.1. Execution.** After the Effective Date of this Agreement, an interested entity
178 may become a Member by executing a copy of this Agreement and a copy of the
179 notification in the form attached to this Agreement indicating that it is joining a
180 Member Sector for which it qualifies pursuant to Section 6.2 (see the form, "Member
181 Sector Notification"). After formation of the PMC pursuant to Section 8.1, the PMC
182 shall determine, pursuant to Section 8.3.12, whether each entity that has executed this
183 Agreement is eligible to join the Member Sector designated in that entity's Member
184 Sector notification. Public Utilities that meet the criteria for membership in the
185 TOLSO Member Sector may only join as Enrolled Transmission Owners in the
186 TOLSO Member Sector described in Section 6.1.1 and may not participate in any
187 other Member Sector. Any other entity may join any Member Sector for which it
188 qualifies, but may only belong to one Member Sector at a time.

189 **5.2. Membership of Non-Public Utilities.** A Non-Public Utility that meets the
190 criteria for membership in the TOLSO Member Sector, as described in Section 6.1.1,

may elect to join the TOLSO Member Sector as an ETO or as a CTO by providing an executed copy of the Member Sector Notification form attached to this Agreement. Except as special circumstances warrant otherwise and as determined by the affirmative vote of the PMC, the PMC will make a decision on membership approvals no later than the second in-person PMC meeting after receipt of the Member Sector Notification form. For the first abbreviated planning cycle, the PMC will act on or before September 1, 2015 on any Non-Public Utility member application received on or before July 1, 2015. If a Non-Public Utility joins a Member Sector other than the TOLSO Sector, the PMC will not perform the function of regional transmission planning for the Non-Public Utility.

5.3. Effective Dates of Enrollment and Membership. A list of current ETOs is maintained in the OATTs of the Public Utility ETOs, which shall report revisions to the list of ETOs through filing updates of the respective OATTs with the Commission. The effective date of enrollment of a Public Utility ETO is the effective date of its OATT filing adding its name to the list of ETOs. The effective date of membership of all other Members is the date that the Member's Member Sector designation is approved by the PMC.

5.4. Unenrollment. Any Non-Public Utility ETO seeking to unenroll from the region must do so under Section 5.6, governing the withdrawal of Members.

5.4.1. An unenrolling Non-Public Utility ETO will continue to be subject to Cost Allocation for its share of the transmission facilities that were first selected for Cost Allocation in the WestConnect Regional Planning Process in prior planning cycles as to which it was enrolled, subject to reevaluation in the WestConnect Regional Planning Process.

215 **5.4.2. CTO Acceptance of Cost Allocation.** A CTO Member, in its sole
216 discretion, may elect to accept a Cost Allocation for each separate transmission
217 facility proposed for selection in the Regional Transmission Plan for which it is
218 identified as a beneficiary in accordance with the process set forth in Section 7.6
219 of this Agreement.

220 **5.5. Member Sector Changes**

221 **5.5.1.** Except for Members of the TOLSO Sector, any Member is free at
222 any time, upon thirty (30) calendar days' written notice, and submission to the
223 Chair of the PMC an updated Member Sector Notification, to change from the
224 Member Sector in which it elected to participate to any other Member Sector for
225 which it qualifies. A CTO may change to another Member Sector only at the end
226 of a planning cycle, with notification to the Chair of the PMC required no later
227 than June 30 of the second year of the planning cycle.

228 **5.5.2.** If a Member moves from any other Member Sector to the TOLSO
229 Member Sector, the Member's dues will increase to the TOLSO Member Sector
230 level upon the effective date of the Member Sector change. If a Non-TOLSO
231 Member moves from any Member Sector to any Member Sector other than the
232 TOLSO Member Sector, the Member's dues will be at the higher of the two
233 Member Sector levels for a period of 180 days after the effective date of the
234 Member Sector change or through the end of the calendar year, whichever period
235 is longer, and thereafter the Member shall pay dues at its new Member Sector
236 level.

237 **5.5.3.** A Member's change in Member Sector will not affect the
238 continuation of this Agreement. Other than as set forth as a PMC responsibility

under Section 8.3 herein, no Member shall oppose any other Member's election or change of Member Sectors except that this section will not operate to limit the authority of a SRC to address the membership of a Public Utility over which it has jurisdiction outside the WestConnect Regional Planning Process.

5.5.4. Notwithstanding a Member's change of Member Sector pursuant to this Section, the changing Member shall continue to be obligated to fulfill its Member responsibilities, including but not limited to payment of dues in accordance with this Section 5.5 and with Sections 6.4 and 6.5.

5.5.5. A Member's change in Member Sectors does not prevent that Member from future membership in any Member Sector for which it qualifies.

5.5.6. A Member giving notice of a change in its Member Sector may rescind that notice at any time prior to the change becoming effective by providing written notice of its rescission to the Chair of the PMC.

5.6. Withdrawal of a Member

5.6.1. Any Member may withdraw its participation in this Agreement upon a 180 calendar day written notice to the Chair of the PMC. In the event a Member provides the notice to withdraw prior to July 1st, the withdrawing Member shall remain obligated to pay its annual dues pursuant to Sections 6.4.2 and 6.4.3 or its share of expenses pursuant to Section 6.4.5 for the remainder of the calendar year in which the withdrawal takes place. In the event a Member provides a notice to withdraw on or after July 1st, the withdrawing Member shall remain obligated to pay its annual dues or its share of expenses for that calendar year and the following calendar year. Members also may withdraw in accordance with Section 5.6.8 of this Agreement.

263 **5.6.2.** Performance of its obligations under this Agreement by any
264 Member that is funded by appropriations from a Governmental Authority is
265 expressly subject to the appropriation of sufficient funds by its Governmental
266 Authority. Such Member warrants that the funds appropriated with respect to this
267 Agreement for the first year in which the Agreement is in effect as to that
268 Member are equal to or exceed the Member's participation amount for that year
269 as established by Section 6.4. In the event appropriated funds are insufficient to
270 permit performance of a Member's obligations under this Agreement, or
271 appropriated funds may not be expended due to the Governmental Authority's
272 spending limitations, then that Member's membership in the WestConnect
273 Regional Planning Process and obligations under this Agreement (except as
274 provided in Section 5.6.5) shall thereafter become null and void by operation of
275 law. A Member that is funded by appropriations by a Governmental Authority
276 that does not have sufficient funds to perform its obligations under this
277 Agreement shall submit a written notice of withdrawal to the Chair of the PMC as
278 soon as reasonably practical. Such notice of withdrawal shall become effective
279 on the date specified by the Member, but in no event later than the date as of
280 which the Member has insufficient funds to meet its obligations under this
281 Agreement.

282 **5.6.3.** If a Member declines to execute a modification to the Agreement
283 approved in accordance with Section 12.4 herein, that Member shall be obligated
284 to submit its notice of withdrawal from the Agreement in accordance with
285 Section 5.6. If a Member is prohibited from executing a modification to the

Agreement due to legal constraints, or in the case of a TOLSO Member due to conflict with its transmission tariff, this Section 5.6.3 shall not apply.

5.6.4. A Member's withdrawal shall not affect the continuation of this Agreement for remaining Members. No Member shall oppose any other Member's withdrawal, except that this section shall not operate to limit the authority of an SRC to address the membership of a Public Utility or Non-Public Utility over which it has jurisdiction outside the WestConnect Regional Planning Process.

5.6.5. Notwithstanding a Member's notice of withdrawal, the withdrawing Member shall continue to be obligated to fulfill its responsibilities imposed under this Agreement, including but not limited to its funding responsibilities as set forth in Section 6.4 hereof. An ETO that withdraws its participation in this Agreement shall not be subject to binding Cost Allocation for any transmission facility selected in the WestConnect Regional Planning Process for purposes of Cost Allocation subsequent to such TOLSO Member's withdrawal. If withdrawal of a TOLSO Member from the Agreement affects Cost Allocation for a transmission facility selected in the WestConnect Regional Planning Process for purposes of Cost Allocation, upon receipt of the notice of withdrawal, the PMC shall reevaluate the transmission facility pursuant to the WestConnect Regional Planning Process.

5.6.6. A Member's withdrawal does not prevent that Member from reapplying as a Member in any Member Sector for which it qualifies.

5.6.7. A Member's withdrawal does not prevent that Member from engaging in WestConnect Regional Planning Process activities as a stakeholder

outside of this Agreement. Each Public Utility TOLSO Member has on file with FERC tariff provisions that provide for generally-applicable stakeholder participation in the regional planning process for the WestConnect Planning Region. A Member that withdraws from this Agreement is eligible to participate in the regional planning process as a stakeholder by attending publicly-posted WestConnect regional transmission planning stakeholder meetings and/or by submitting project proposals for consideration and evaluation in the regional planning process.

5.6.8. Notwithstanding any other provision in this Agreement, a Member may withdraw immediately its participation in this Agreement at any time upon written notice to the Chair of the PMC if that Member determines in its sole discretion that there is a material risk of adverse regulatory action or FERC orders a modification of this Agreement or imposes a material condition upon participation in this Agreement adversely affecting such Member. If the Member's notice of withdrawal pursuant to this Section 5.6.8 is given prior to July 1st, the withdrawing Member shall remain obligated to pay its annual dues under Section 6.4.3 or its share of expenses under Section 6.4.5 for the remainder of the calendar year in which the withdrawal takes place. If a Member's notice of withdrawal is given on or after July 1st, the withdrawing Member shall remain obligated to pay its annual dues or its share of expenses pursuant to Section 6.4 for that calendar year and the following calendar year.

5.6.9. A Member giving notice of its withdrawal may rescind that notice prior to its withdrawal becoming effective by providing written notice of its rescission to the other Members, as long as the written notice of rescission is

provided no later than 30 days prior to the Member's withdrawal becoming effective.

5.7. Termination of Agreement by TOLSOs

5.7.1. The ETOs have sole discretion to terminate this Agreement, upon a unanimous vote of ETOs provided that certain sections of this Agreement are expressly identified to survive termination.

5.7.2. If termination is approved under this Section 5.7, the Agreement will terminate on the date specified by the ETOs who vote to terminate it pursuant to Section 5.7.1 above, which will be no later than 90 days after the vote to terminate.

6. MEMBERS AND MEMBERSHIP

6.1. Member Sectors. The Member Sectors in this Agreement are as follows:

6.1.1. Transmission Owner with Load Serving Obligations

("TOLSO") Member Sector: A sector composed of entities that (1) provide transmission service and own a minimum of one hundred (100) circuit miles or \$100 million of original installed cost of transmission plant rated at 115 kV and higher within the Western Interconnection; and (2) serve a minimum of 150 MW of retail and/or wholesale network load within the Western Interconnection. As it pertains to the requirements above, TOLSO Members may include but are not limited to vertically-integrated utilities, generation and transmission cooperative associations, federal power marketing administrations, municipal utilities and joint action agencies whose members are registered with NERC as Load Serving Entities. Joint action agencies that meet requirement (1), above, on a standalone basis, and can meet requirement (2), above, by virtue of their members, are

eligible to join the TOLSO Member Sector. Corporate affiliates of TOLSOs that do not meet requirement number (1) above on a standalone basis are eligible to join the TOLSO Member Sector, provided that they meet requirement number (2) above. For purposes of cost sharing of legal costs and the costs to conduct the WestConnect regional transmission planning process, Members that are corporate affiliates shall be considered one entity. This TOLSO Member Sector is further portioned into the following two (2) sub-Sectors:

6.1.1.1. Enrolled Transmission Owner (“ETO”): A sub-sector composed of Members that enroll in the TOLSO Member Sector for purposes of Cost Allocation pursuant to Order No. 1000.

6.1.1.2. Coordinating Transmission Owner (“CTO”): A sub-sector composed of Members that join the TOLSO Member Sector to participate in the WestConnect Regional Planning Process without enrolling for Order No. 1000 Cost Allocation purposes.

6.1.2. Transmission Customer (“TC”) Member Sector: A sector composed of entities that receive transmission service or generator interconnection service pursuant to an agreement with a TOLSO Member or ITDO Member. TC Members may include, but are not limited to, generation developers, Generator Owners, Load Serving Entities and Purchasing-Selling Entities. To qualify as a TC Member, a generation developer must have entered into a GIA with a TOLSO Member or an ITDO Member.

6.1.3. Independent Transmission Developer or Owner (“ITDO”) Member Sector: A sector composed of entities that either (1) plan to develop one or more transmission projects rated at 115 kV or higher within the

WestConnect Planning Region, which project(s) must have been submitted into the WECC Regional Planning Project Review Process and the WestConnect Regional Planning Process for reliability assessment; or (2) own transmission facilities rated at 115 kV or higher located within or connected to the WestConnect Planning Region but does not serve a minimum of 150 MW of retail and/or wholesale network load.

6.1.4. State Regulatory Commission (“SRC”) Member Sector: A

sector composed of state regulatory commissions with jurisdiction over the provision of electric service at retail over facilities located within the United States portion of the Western Interconnection, which facilities are owned or operated by a Public Utility TOLSO Member in serving electric retail load.

6.1.5. Key Interest Group (“KIG”) Member Sector: A sector

composed of entities that do not qualify or that elect not to join as Members of one of the other Member Sectors. Such entities may include, but are not limited to, state energy offices, consumer representatives, resource and environmental advocacy groups, and generation developers.

6.2. Active and Inactive Members. A Member has all rights and obligations under this Agreement as long as it maintains Active Member status. To maintain Active Member status, (1) a Member’s designated representative or alternate must attend at least three (3) PMC meetings within each rolling 12-month period in person or by teleconference or video conference; and (2) a Member must meet the funding requirements (if any) set forth in Section 6. A Member that does not meet these requirements will be deemed an Inactive Member by the PMC. An Inactive Member may be reinstated upon demonstration of renewed, current compliance with the

Active Member requirement(s), including payment of any delinquent dues and expenses. A Member may designate itself as an Inactive Member at any time by providing thirty (30) days' written notice to the PMC Chair. Such self-designated Inactive Member status will be effective until the Inactive Member provides thirty (30) days' written notice that it wishes to be reinstated as an Active Member and that it meets the Active Member requirements and is approved for reinstatement as an Active Member by the PMC. An Inactive Member may not participate as a voting member in the WestConnect Regional Planning Process other than to fulfill its obligations for funding the WestConnect Regional Planning Process (if any) during the inactive period. A Member that is in Inactive status for two consecutive years shall be deemed withdrawn from the Agreement.

6.3. Change in Member Status by the PMC. The PMC, by a vote of all five Member Sectors, provided that each sector approves such action with a minimum of 75% of the voting members present in person or by teleconference or video conference, may designate a Member as Inactive, or terminate the membership of a Member, for a failure to meet any of such Member's obligations under this Agreement, including, but not limited to: (1) non-payment of dues, fees, penalties, or other amounts assessed pursuant to this Agreement; (2) intentionally or repeatedly violating any PMC policy or practice; (3) breaching or intentionally violating any relevant decision by a regulatory body with jurisdiction over the issue; or (4) willfully obstructing any lawful purpose or activity of the PMC; provided that initiating a dispute in accordance with Section 10 of this Agreement shall not be grounds for designating a Member as Inactive or terminating its membership.

6.4. Funding

430 **6.4.1.** SRC Members and KIG Members that are state energy offices or
431 state consumer representatives shall have no obligations to fund PMC-approved
432 expenses for the activities and functions of the WestConnect Regional Planning
433 Process.

434 **6.4.2.** KIG Members that are NGOs shall be subject to a tiered dues
435 structure based on the organization's annual operating budget set forth below.
436 Such KIG Member must annually submit an attestation, in the form attached to
437 this Agreement, executed by an official of the KIG Member organization with
438 authority to bind the organization.

439 **6.4.2.1.** KIG Members with annual operating budgets exceeding
440 \$15,000,000 shall pay dues of \$3,250 per calendar year.

441 **6.4.2.2.** KIG Members with annual operating budgets between \$8,000,001
442 and \$15,000,000 shall pay dues of \$1,200 per calendar year.

443 **6.4.2.3.** KIG Members with annual operating budgets between \$4,000,001
444 and \$8,000,000 shall pay dues of \$650 per calendar year.

445 **6.4.2.4.** KIG Members with annual operating budgets between \$2,000,001
446 and \$4,000,000 shall pay dues of \$325 per calendar year.

447 **6.4.2.5.** KIG Members with annual operating budgets less than \$2,000,001
448 shall not be responsible for membership dues.

449 **6.4.3.** Each KIG Member (except those exempted from paying dues or
450 subject to alternate dues amount pursuant to Section 6.4.2), TC Member and
451 ITDO Member shall pay dues of \$5,000 per calendar year.

452 **6.4.4.** Dues shall be paid no later than January 31 of each calendar year or
453 within forty-five (45) calendar days of executing the Agreement.

6.4.5. TOLSO Members. TOLSO Members shall be responsible for funding the expenses to carry out the activities and functions of the WestConnect Regional Planning Process as approved by the PMC pursuant to the Agreement that are in excess of (1) funds provided pursuant to Section 6.4.2 hereof and (2) funds provided by project proponents and interested parties for planning study requests as described in the BPM. Such expenses shall be divided among the TOLSO Members according to the following formula:

$c = (0.5 (1/x + y/\sum y)) \times 100$, where:

c = each TOLSO Member's expense share percentage

x = the total number of TOLSO Members under this Agreement

y = each TOLSO Member's annual energy in MWh delivered to the TOLSO Member's load residing in the WestConnect Planning Region, and

$\sum y$ = the total of all TOLSO Members' annual energy in MWh delivered to the TOLSO Members' load residing in the WestConnect Planning Region.

The TOLSO Members shall update the load ratio shares calculation ($y/\sum y$) annually. Additionally, the total expense share percentage for each TOLSO Member, calculated according to the formula above, shall be updated in any month in which the total number of TOLSO Members changes.

6.5. Finance Agent; Billing and Payment

6.5.1. Within ninety (90) days of the Effective Date, the PMC shall appoint a TOLSO member as the Finance Agent. In the event no TOLSO Member is willing to serve as Finance Agent, the PMC shall appoint a third party to serve as Finance Agent.

478 **6.5.2.** The Finance Agent shall establish an operating account at a bank of
479 its choice and so notify the Chair of the PMC within five (5) business days
480 following such establishment. Such account shall be segregated from the Finance
481 Agent's own accounts and funds. The PMC Chair and Vice-Chair may request to
482 be added as signatories to the operating account.

483 **6.5.3.** The Finance Agent shall establish a minimum cash balance for the
484 operating account, which shall be funded, in accordance with Section 6.4, by the
485 TOLSO Members initially and replenished with dues from Members and
486 additional contributions from TOLSO Members for deficiencies thereafter as
487 necessary, to ensure full payment of expenditures incurred pursuant to this
488 Agreement. The minimum cash balance at the end of each month will be at least
489 equal to the budgeted expenditures for the next sixty (60) days.

490 **6.5.4.** The Finance Agent shall bill TOLSO Members on a monthly basis
491 according to the expense ratio allocations calculated pursuant to Section 6.4.5.
492 All other Members will be billed on an annual basis pursuant to section 6.4. In
493 preparing the billing, the Finance Agent shall take into consideration the current
494 PMC cash balance, the anticipated PMC expenditures in the next sixty (60) days
495 based upon PMC contractual or other commitments, and other PMC budgeted
496 expenses, including the Finance Agent's costs incurred fulfilling its obligations
497 under this Section 6, for the next sixty (60) days, as may be adjusted to more
498 appropriately reflect forecasted PMC expenditures for the next sixty (60) days.

499 **6.5.5.** Each Member shall provide the Finance Agent with the mailing
500 address and e-mail address of its PMC Representative and the name, mailing
501 address and e-mail address of a second person authorized by the Member to

receive invoices, which shall be sent by the Finance Agent via e-mail or other electronic communications.

6.5.6. All amounts billed to the Members under this Agreement will be due and payable to the Finance Agent within forty-five (45) business days following the billing date. The billing date will be the date on which invoices are sent to the parties pursuant to Section 6.5.5 via e-mail or other electronic communications. If a Member disputes the amount billed to it, it shall timely pay the full amount due under protest and provide Written Notice of Dispute to the Legal Subcommittee in accordance with the procedures described in Section 10 hereto within forty-five (45) business days following the billing date. Absent timely written notice of a billing dispute, a Member shall be deemed to have approved the amounts billed for that applicable billing period.

6.5.7. Failure of a Member to timely pay amounts billed will constitute a payment default under this Agreement. The Finance Agent shall provide written notice of the existence of a payment default to the defaulting Member and to the Chair of the PMC within ten (10) calendar days following the date of payment default. After receipt of such notice of payment default, the defaulting Member shall take all steps necessary to promptly and completely cure such payment default within thirty (30) calendar days of the date that the Finance Agent mailed or delivered the notice of payment default to the defaulting Member. In the event that the defaulting Member does not cure the payment default within thirty (30) calendar days of the date that the Finance Agent mailed or delivered the notice of payment default to the defaulting Member, the PMC may designate the Member as Inactive or terminate its membership as herein provided.

526 **6.5.8.** The Finance Agent shall credit interest earned on the operating
527 account toward operating expenses under this Agreement.

528 **6.5.9.** The Finance Agent shall, every two months, prepare and provide to
529 the PMC a financial report on income received, and costs and expenditures
530 incurred, under this Agreement. Such report shall reflect the approved
531 Agreement budget, actual costs and payments, cost allocation percentages, and
532 the status of the operating account cash balance. The PMC will review and
533 accept, or require modification(s) and then accept, each such report consistent
534 with industry practices for auditable records.

535 **6.5.10.** In the event that the Agreement is terminated, the Finance Agent
536 shall, after paying all bills, liquidate the operating account and refund remaining
537 monies to Members. Funds shall be distributed in accordance with direction
538 provided by the PMC based pro rata on funds contributed by each Member.

539 **7. WESTCONNECT REGIONAL PLANNING PROCESS**

540 The WestConnect Regional Planning Process is conducted pursuant to a biennial
541 planning cycle which is more fully described in the respective Members' OATTs on
542 file with the Commission, as supplemented by the BPM. Each step in the
543 WestConnect Regional Planning Process is overseen and requires approval by the
544 PMC. The WestConnect Regional Planning Process includes, but may not be limited
545 to, the following general steps:

546 **7.1. Development of the Regional Study Plan.** The WestConnect Regional
547 Planning Process will develop a regional study plan at the start of each biennial
548 planning cycle, which will include, but not be limited to, determination of base cases,
549 the study time frame, planning data and assumptions, enacted public policy
550

requirements incorporated in TOLSO Members' local planning processes, alternative scenarios to be studied, computer software that will be utilized, and the proposed schedule and mechanisms for stakeholder involvement in the WestConnect Regional Planning Process.

7.2. Development of Planning Models. Upon PMC approval of the regional study plan, the WestConnect Regional Planning Process will develop the power flow and production cost models required to perform the technical studies outlined in the regional study plan, including but not limited to determination of required data and assumptions on loads, transmission, generation and non-transmission alternatives additions and retirements, heat rates, ramp rates, fuel costs, and maintenance and forced outages.

7.3. Identification of Regional Transmission Needs. Upon PMC approval of the planning models, the WestConnect Regional Planning Process will commence identification of regional transmission needs, which will include but not be limited to evaluation and validation of the planning models; performance of systems assessments to evaluate regional reliability needs, economic needs, and needs required to meet public policy requirements; and sharing planning model information and identified regional needs for the WestConnect Planning Region with other regional planning entities in the Western Interconnection.

7.4. Submittal of Projects to Meet Regional Transmission Needs. Upon PMC approval of identified regional transmission needs, the WestConnect Regional Planning Process will conduct an open process for submittal of projects to meet identified regional transmission needs by Active Members in good standing, as defined in Section 6.2 of this Agreement. Valid project submittals may include

proposed transmission projects, both projects seeking and not seeking Cost Allocation, and proposed non-transmission alternatives.

7.5. Identification of Projects that Meet Regional Transmission Needs.

Upon PMC determination of which submitted projects meet the requirements for valid project submittals, the WestConnect Regional Planning Process will utilize the planning models to determine which, if any, valid proposed projects resolve identified regional transmission needs. If no valid projects have been proposed to meet an identified regional transmission need, the PMC will develop an appropriate project, which will not be eligible for Cost Allocation. The PMC will then conduct its own process to determine if any projects are more efficient or cost-effective or if there is a regional need that is not addressed.

7.6. Identification of Beneficiaries and Cost Allocation. The WestConnect Regional Planning Process will evaluate valid project submittals that seek allocation of costs to determine if they meet Cost Allocation eligibility requirements. A valid project seeking Cost Allocation that is deemed eligible for Cost Allocation by the PMC must demonstrate known and measurable reliability, economic and/or enacted public policy benefits at or above applicable benefit/cost ratios. On or before the end of the 7th quarter of the WestConnect Regional Planning Process, the Cost Allocation Subcommittee is to submit, for review and comment, the results of its project benefit/cost analysis and beneficiary determination to the PMC Chair and to the identified beneficiaries of the transmission projects proposed for Cost Allocation. The PMC shall make available to its Members sufficient information to allow for a reasonable opportunity to comment on the proposed selection. The PMC shall not make a determination on the project benefit/cost analysis and beneficiary

determination until it has reviewed all comments. Upon approval of the PMC, the project benefit/cost analysis and beneficiary identifications shall be posted by the PMC on the WestConnect website.

7.6.1. Each CTO beneficiary will indicate whether it accepts the cost allocation for the project, as follows:

7.6.1.1. A CTO Member, in its sole discretion, may elect to accept a Cost Allocation for each separate regional transmission facility for which it is identified as a beneficiary, but only if it notifies the Chair of the PMC in writing of its decision to accept any such Cost Allocation within sixty (60) calendar days after the project benefit/cost analysis and beneficiary identifications are posted by the PMC under this Section 7.6; provided, however, that the PMC has the discretion to extend the 60-day period when additional time is necessary for an identified beneficiary to complete its internal review and deliberation process before deciding to accept Cost Allocation.

7.6.1.2. A CTO Member giving notice that it elects to accept a Cost Allocation for a regional transmission facility may rescind that notice at any time prior to the end of the sixty (60) day period, or such extended period established pursuant to this Section 7.6.

7.6.1.3. A CTO Member that does not accept a cost allocation for a regional transmission facility will not be subject to Cost Allocation for that transmission facility.

7.6.2. Recalculation of Benefits and Costs for Reliability Projects. The Cost Allocation Subcommittee will adjust, as necessary, its project benefit/cost

analysis and beneficiary identification for any transmission project that continues to meet the region's criteria for regional Cost Allocation. For any CTO beneficiary that does not accept Cost Allocation for a regional transmission project under this Section 7.6, such CTO's transmission need(s) which was included within the identification of the region's transmission needs (for which the regional project would have avoided an alternative reliability project in such CTO's local transmission plan) will be removed as a regional transmission need for purposes of justifying a project's approval as a project eligible for inclusion in the regional plan for purposes of cost allocation.

7.6.3. Recalculation of Benefits and Costs for Public Policy Requirements

Projects. The Cost Allocation Subcommittee will adjust, as necessary, its project benefit/cost analysis and beneficiary identification for any transmission project that continues to meet the region's criteria for regional Cost Allocation. For any CTO beneficiary that does not accept Cost Allocation for a regional transmission project under this Section 7.6, such CTO's transmission need(s) which was included within the identification of the region's transmission needs (for which the regional project would have avoided an alternative Public Policy Requirements project in such CTO's local transmission plan) will be removed as a regional transmission need for purposes of justifying a project's approval as a project eligible for inclusion in the regional plan for purposes of cost allocation. This shall include any such CTO's resource needs necessary to comply with Public Policy Requirements.

7.6.4. Recalculation of Benefits and Costs for Economic Projects. The Cost Allocation Subcommittee will adjust, as necessary, its project benefit/cost

analysis and beneficiary identification for any transmission project that continues to meet the region's criteria for regional Cost Allocation. For any CTO beneficiary that does not accept Cost Allocation for a regional transmission project under this Section 7.6, such CTO's transmission benefits which were included within the identification of the regional project's economic benefits will be removed as a regional transmission benefit for purposes of justifying a project's approval as a project eligible for inclusion in the regional plan for purposes of cost allocation. This shall include the value of any economic benefits determined through the Regional Transmission Plan to accrue to such CTO.

7.6.5. Resultant Increase in Beneficiary Cost Allocation. Any regional transmission project that continues to meet the region's benefit/cost and other criteria for regional Cost Allocation will remain eligible for selection in the Regional Plan for purposes of Cost Allocation.

7.7. Development of the Regional Transmission Plan. Upon completion of a proposed WestConnect regional plan based upon the analysis and identification of alternatives to meet regional transmission needs described in Sections 7.1 through 7.6, including receipt and review of stakeholder questions, comments and input, the PMC will vote on whether to accept the proposed plan. The PMC will include in the approved Regional Transmission Plan documentation of the reasons for inclusion or exclusion of proposed transmission projects and non-transmission alternatives in the plan.

7.8. Developer Selection Process. After the plan is complete, the PMC will select a developer that has the right to use the regional Cost Allocation method for

each project included in the Regional Transmission Plan for purposes of Cost Allocation.

8. GOVERNANCE OF WESTCONNECT REGIONAL PLANNING PROCESS

8.1. Planning Management Committee (“PMC”). The WestConnect Regional Planning Process shall be managed and governed by the PMC. Each Member shall appoint one person to represent the Member on the PMC. Each Member representative shall serve on the PMC at the pleasure of the Member that appointed the representative and may be removed or replaced by such Member at any time. If a Member’s designated representative is unable to attend or participate in a PMC meeting in person or by teleconference or video conference, the Member representative may designate an alternate person to represent the Member in the meeting. However, no Member may cast more than one vote on matters before the PMC. Each Member shall be responsible for ensuring its PMC representatives have executed all agreements necessary for participation in the WestConnect Regional Planning Process.

8.1.1. Meetings of the PMC and Subordinate Committees. Meetings of the PMC and any subordinate committees shall be called as follows:

8.1.1.1. Frequency. The PMC shall meet every two months, or more frequently as needed. Subordinate committees shall meet as necessary.

8.1.1.2. Notice. Except as provided for in Sections 8.1.1.3 and 8.1.1.4, the chair of the PMC or a subcommittee shall cause a notice of meetings of the PMC or any subordinate committees to be posted on the WestConnect website and via email to all Members at least fourteen (14) days in advance of the meeting.

695 **8.1.1.3. Emergency Meetings.** Emergency meetings of the PMC or any
696 subordinate committee may be called by the PMC Chair or Vice Chair (or, in
697 the case of a subordinate committee, by the subcommittee chair) with no less
698 than five (5) business days' notice (unless circumstances require immediate
699 action). The PMC Chair, Vice Chair or subcommittee chair shall cause such
700 notice to be posted on the WestConnect website and via email to all
701 Members.

702 **8.1.1.4. Special Considerations for Legal Subcommittee Meetings.**

703 Notwithstanding the provisions of Sections 8.1.1.2 and 8.1.1.3 above,
704 meetings of the Legal Subcommittee shall be non-public and limited only to
705 Members. Except as set forth below, notice of Legal Subcommittee meetings
706 shall be provided in accordance with Sections 8.1.1.2 and 8.1.1.3.

707 Notwithstanding the immediately preceding sentence, Legal Subcommittee
708 meetings may be required from time to time on short notice to, among other
709 things, timely respond to deadlines imposed pursuant to administrative and/or
710 court orders, and/or any other rules of procedure of the applicable
711 Governmental Authority, and/or to otherwise respond to time-sensitive legal
712 matters (collectively, "Time-Sensitive Legal Matters"). In the event of Time-
713 Sensitive Legal Matters, the chair of the Legal Subcommittee shall cause the
714 notice of a Legal Subcommittee meeting to be posted on the WestConnect
715 website and provided via email to all Members as soon as reasonably
716 practicable prior to the meeting if such meeting cannot take place in
717 accordance with the notice provisions set forth in Sections 8.1.1.2 and 8.1.1.3
718 above, but no less than two (2) business days' prior notice.

719 **8.2. PMC Chair and Vice Chair.** The PMC shall elect a Chair and a Vice
720 Chair from among the Member representatives to serve two-year terms, provided that
721 the Chair and Vice Chair may each serve no more than two consecutive two-year
722 terms in those roles. The PMC shall strive to have the Chair and Vice Chair seats
723 populated from different Member Sectors; however, the PMC has the discretion to
724 decide otherwise, as reasonable and appropriate, in light of the number of PMC
725 Members willing to serve in such positions at the time and their professional
726 background and expertise. The greater the number of vacant or sparsely-populated
727 Member Sectors, the greater the PMC's discretion in this regard. The Chair shall
728 conduct all meetings of the PMC. The Vice Chair shall assume the Chair's
729 responsibilities in the temporary absence of the Chair. Unless the PMC directs
730 otherwise, if the Chair is unable to complete his or her two-year term, the Vice Chair
731 shall become the Chair for the remainder of the Chair's term, and the PMC will elect
732 a Vice Chair from among the Member representatives to fulfill the remainder of the
733 Vice Chair's term.

734 **8.3. PMC Responsibilities.** The PMC is responsible for the management of the
735 WestConnect Regional Planning Process pursuant to this Agreement. The PMC may
736 delegate activities to the planning management project manager or others as it sees
737 fit. However, the PMC retains ultimate authority for the responsibilities listed below:

738 **8.3.1.** Develop and approve the Regional Transmission Plan that includes
739 application of the Cost Allocation methodology for the WestConnect Planning
740 Region.

741 **8.3.2.** Develop and approve an annual budget for the WestConnect Regional
742 Planning Process activities and functions.

743 **8.3.3.** Develop and approve an annual scope of work, work plan and periodic
744 reporting for WestConnect Regional Planning Process activities and functions,
745 including holding a minimum of two stakeholder informational meetings per
746 year.

747 **8.3.4.** Employ an independent contractor to perform WestConnect planning
748 management project manager services.

749 **8.3.5.** Direct, delegate and otherwise assign administrative responsibilities to
750 the planning management project manager.

751 **8.3.6.** Arrange for the purchase and performance of goods and services,
752 including consulting services, necessary or appropriate for conduct of the
753 WestConnect Regional Planning Process.

754 **8.3.7.** Biennially elect a PMC Chair and a Vice Chair.

755 **8.3.8.** Appoint the Chair of the Planning Subcommittee, the Chair of the Cost
756 Allocation Subcommittee, the Chair of the Legal Subcommittee and the chair of
757 any other subcommittee created by the PMC pursuant to Section 8.4 to serve as
758 the spokesperson for each such subcommittee. Each of these subcommittee
759 chairs must be a representative of a TOLSO Member, provided that the Chair of
760 the Cost Allocation Subcommittee must be a representative of an ETO Member.

761 A subcommittee chair may serve no more than two consecutive two-year
762 appointments, unless the PMC directs otherwise.

763 **8.3.9.** Appoint and dissolve permanent or ad hoc work groups and
764 subcommittees as appropriate to carry out the WestConnect Regional Planning
765 Process.

766 **8.3.10.** Approve the purposes and responsibilities, and revisions thereto, of work
767 groups and subcommittees established pursuant to Section 8.3.9, including
768 reporting responsibilities.

769 **8.3.11.** Approve the initial BPM and thereafter approve subsequent BPM
770 revisions in accordance with the procedures set forth in the BPM.

771 **8.3.12.** Determine whether an entity signing this Agreement is eligible for the
772 Member Sector it elects to join.

773 **8.3.13.** Select a website contractor and approve website changes related to the
774 WestConnect Regional Planning Process.

775 **8.3.14.** Act on recommendations or other matters referred to it by its
776 subcommittees and ad hoc work groups.

777 **8.3.15.** Determine a Member's Active Member or Inactive Member status as
778 provided herein.

779 **8.3.16.** Determine and approve expenses and fees for study work for projects
780 submitted for evaluation as part of the WestConnect Regional Planning Process.

781 **8.3.17.** Develop and approve processes to invite stakeholder involvement in
782 PMC, subcommittee and work group meetings and opportunities for comment on
783 the WestConnect Regional Planning Process.

784 **8.3.18.** Coordinate with neighboring planning regions and stakeholders to
785 develop and implement processes for interregional transmission planning
786 coordination.

787 **8.3.19.** Appoint a Finance Agent and audit the Finance Agent at the discretion of
788 the PMC no less often than every three years.

789 **8.3.20.** Take other actions as necessary to effectuate the WestConnect Regional
790 Planning Process.

791 **8.3.21.** Designate individuals to represent the PMC in industry forums.

792 **8.3.22.** Qualify and designate developers of transmission projects eligible for
793 Cost Allocation.

794 **8.4. Subcommittees.** The Planning Subcommittee, the Cost Allocation
795 Subcommittee and the Legal Subcommittee shall be standing subcommittees of the
796 PMC. Pursuant to Section 8.3.9 herein, the PMC may establish and retire other
797 subcommittees from time to time. The PMC shall specify the purposes and
798 responsibilities of a proposed new subcommittee in the PMC approval item for the
799 formation of the subcommittee. Chairs of the Planning Subcommittee, the Cost
800 Allocation Subcommittee and the Legal Subcommittee shall be appointed by the
801 PMC pursuant to Section 8.3.8 herein. Each Member shall appoint a representative
802 to the Planning Subcommittee and to the Cost Allocation Subcommittee.
803 Appointment of a representative to other subcommittees that may be established by
804 the PMC shall be at each Member's discretion, unless the PMC directs otherwise.
805 The Legal Subcommittee will consist of two representatives per Member Sector
806 who will be appointed by each of the Member Sectors. The Legal Subcommittee
807 representatives from each Member Sector will be attorneys, however, the Legal
808 Subcommittee representatives are to seek the input, as necessary and appropriate,
809 of business/engineering staff of PMC Members. Notwithstanding anything to the
810 contrary set forth in this Section 8.4, Member representatives appointed to the Legal
811 Subcommittee will be appointed in accordance with the provisions of Section 10.1,
812 below. Each Member representative shall serve on the subcommittee at the pleasure

of the Member, or Member Sector in the case of the Legal Subcommittee, that appointed the representative and may be removed or replaced by such Member or Member Sector, as applicable, at any time. If a Member's or Member Sector's designated representative, as applicable, is unable to attend or participate in a subcommittee meeting in person or by teleconference or video conference, the Member or Member Sector representative, as applicable, may designate an alternate person to represent the Member or Member Sector, as applicable, in the meeting.

8.4.1. Planning Subcommittee. Responsibilities of the Planning

Subcommittee are to:

8.4.1.1. Establish base cases for the WestConnect Regional Planning Process.

8.4.1.2. Coordinate studies between the PFWG and EPWG.

8.4.1.3. Produce the Regional Transmission Plan and recommend such plan to the PMC for approval. The subcommittee will consider projects from the PFWG and EPWG that are recommended for inclusion in the plan.

8.4.1.4. Provide public notice of the Planning Subcommittee meetings, and provide opportunities for stakeholders to provide comments on the process and proposed plan.

8.4.1.5. Perform such other functions and duties as may be assigned to it by the PMC.

8.4.2. Cost Allocation Subcommittee. Nothing in this Agreement will pre-determine Cost Allocation for projects or how costs allocated for projects will be recovered. Subject to that limitation, responsibilities of the Cost Allocation Subcommittee are as follows:

836 **8.4.2.1.** Perform or oversee the performance of the Cost Allocation

837 methodology under the WestConnect Regional Planning Process.

838 **8.4.2.2.** Review and make recommendations to the PMC regarding the

839 qualifications for projects recommended for selection for purposes of Cost

840 Allocation for inclusion in the Regional Transmission Plan.

841 **8.4.2.3.** Make recommendations to the PMC on modification of the Cost

842 Allocation methodology as necessary to meet required prongs of the Cost

843 Allocation concept, including Order No. 1000 “beneficiary pays” and

844 minimum cost-benefit ratios principles.

845 **8.4.2.4.** Make recommendations to the PMC on modification of the definition

846 of benefits as necessary to meet the required prongs of the Cost Allocation

847 methodology.

848 **8.4.2.5.** Provide public notice of Cost Allocation Subcommittee meetings in

849 accordance with Section 8.1.1.2, and provide opportunities for stakeholders to

850 provide comments on the process and proposed cost allocation.

851 **8.4.2.6.** Manage the developer selection process for projects included in the

852 regional plan for purposes of Cost Allocation.

853 **8.4.2.7.** Perform such other functions and duties as may be assigned to it by

854 the PMC.

855 **8.4.3. Legal Subcommittee.** Responsibilities of the Legal

856 Subcommittee are to:

857 **8.4.3.1.** Review, assess and agree upon a recommendation to be made to

858 the PMC of a proposed solution to any formal or informal dispute arising

859 under this Agreement from or in connection with a decision or action or a

failure to decide or act of or by the PMC, or any subcommittee or subgroup thereof, or otherwise in connection with the WestConnect Regional Planning Process.

8.4.3.2. Propose recommendations to the PMC to address and seek resolution of any disputes arising under this Agreement, including, without limitation, disputes among or between PMC Members, Member Sectors, Member(s) and/or a third party that is not a Member under this Agreement.

8.4.3.3. Provide recommendations to the PMC on legal strategy in defending and/or resolving disputes, including, but not limited to, the selection and retainer of outside legal counsel, if and when necessary, and whether and/or when to pursue alternative dispute resolution, litigation or settlement.

8.4.3.4. Provide public notice of the Legal Subcommittee meetings in accordance with Sections 8.1.1.2, 8.1.1.3 and 8.1.1.4, as applicable.

8.4.3.5. Perform such other functions and duties as may be assigned to it by the PMC.

8.5. Procedures for Decisions

8.5.1. PMC Approvals. PMC voting will be conducted by Member Sectors. Except as set forth below in Section 8.5.4 of this Agreement, each Member is entitled to one (1) vote within its Sector. A PMC Member representative must be present at a meeting, in person, by video conference, or by teleconference, in order to vote. Except as set forth below in Section 8.5.4 of this Agreement, each PMC Member, through its PMC Member representative, may

cast only one vote. Unless otherwise stated in the Agreement, approval of a matter brought to a vote before the PMC requires either:

8.5.1.1. Approval by 75% of the Member representatives present within each of at least three Member Sectors, where one of the three Member Sectors approving is the TOLSO Member Sector; or

8.5.1.2. Approval by 75% of the Member representatives present within each of the four Member Sectors other than the TOLSO Member Sector plus approval by two-thirds (2/3's) of the Member representatives of the TOLSO Member Sector.

8.5.1.3. In situations where two or more Member Sectors are vacant, the PMC will apply the 75% voting thresholds in Sections 8.5.1.1 and 8.5.1.2 based upon 75% of the total number of Member representatives present (as opposed to 75% of Member representatives within individual Sectors), as follows: approval by 75% of the total Member representatives present, including at least 75% of the Member representatives of the TOLSO Member Sector.

8.5.2. Subcommittee Approvals.

8.5.2.1. Subcommittees, including the Planning Subcommittee, the Cost Allocation Subcommittee and the Legal Subcommittee, shall make decisions by consensus of the Member or Member Sector representatives, as applicable. Consensus means that all Member or Member Sector representatives, as applicable, unanimously accept a decision under consideration by the subcommittee. Subcommittees will conduct straw polls to indicate positions on issues in order to determine if the subcommittee has reached a consensus

907 decision. Only Member representatives or Member Sector representatives, as
908 applicable, present at a meeting in person, by videoconference or by
909 teleconference are entitled to vote in a straw poll. If a subcommittee is unable
910 to reach a consensus decision on an issue or proposal, the subcommittee shall
911 document the positions (including minority opinions) held by the Member or
912 Member Sector representatives, as applicable, and refer the positions to the
913 PMC for resolution. Recommendations reached by consensus shall be
914 provided to the PMC Chair and Vice Chair. The PMC Chair shall provide
915 advance written notice to the PMC Member representatives of any such
916 recommendations and the PMC shall vote upon any such recommendations in
917 accordance with the provisions of Section 8.5.1.

918 **8.5.2.2.** Member representatives or Member Sector representatives, as
919 applicable, of a subcommittee who are not present in person, by
920 videoconference or by teleconference at a subcommittee meeting where a
921 consensus decision was reached may provide written comments in support of
922 the consensus decision. If a Member representative or Member Sector
923 representative that was not present for a meeting in which a consensus
924 decision was reached does not agree with the consensus decision, that
925 Member representative or Member Sector representative may provide written
926 comments that explain the Member or Member Sector representative's
927 position for submittal to the PMC.

928 **8.5.3. No Waiver of State Regulatory Commission or other Members'**

929 **Decision-Making Authority.** Action by an SRC Member representative
930 participating in any part of the WestConnect Regional Planning Process shall not

bind any SRC Member representative or any State Regulatory Commission to any particular course of action in state regulatory proceedings, or other proceedings of any kind outside the WestConnect Regional Planning Process forum. Similarly, no other Member shall, by virtue of its respective participation in any activities under this Agreement, be bound to any particular course of action in any legal or regulatory proceedings (whether local, state or federal, or other proceedings of any kind) outside the scope of this Agreement.

8.5.4. Affiliated Members. In situations where two or more Members are affiliates of each other, for purposes of voting under this Agreement, each Member is entitled to vote in its own Sector, subject to the following conditions:

8.5.4.1. A corporate family may not have more than one vote per Sector. For example, a corporate family that creates multiple ITDO affiliates (as in the case where each independent transmission project within a single corporate family is pursued through a separate affiliated entity) does not enjoy multiple votes in the ITDO Sector. Similarly, Members of the TOLSO Sector that are corporate affiliates of each other shall be considered one entity and collectively entitled to a single vote in matters before the PMC.

8.5.4.2. A corporate family may not have more than two PMC votes, in total.

8.5.4.3. A single entity may not be a Member of more than one Sector. For example, a transmission owner that is also a customer of another transmission owner may not join the TC Sector in addition to the TOLSO/ITDO Sector.

9. CONFIDENTIAL INFORMATION

Any items or information determined to be of a confidential nature, including access to such items, will be governed by a separate non-disclosure agreement. Any

Member's failure to execute the non-disclosure agreement may restrict that
Member's access to such information.

10. DISPUTE RESOLUTION

10.1. Disputes Between Members.

10.1.1. When any Member has a dispute with another Member with respect to the provisions of this Agreement (that is, a dispute within the scope of this Agreement, but one that does not involve a PMC Decision), that Member shall send a Written Notice of Dispute to the Legal Subcommittee Chair. For purposes of this Section 10, a dispute that involves a PMC Decision is any matter upon which the PMC voted pursuant to Section 8.5, and a dispute within the scope of this Agreement is any matter involving the PMC's management of the WestConnect Regional Planning Process pursuant to this Agreement, including its Section 8.3 responsibilities. Such notice must set forth in adequate detail the nature of the dispute and the solution sought. The Legal Subcommittee Chair, or his/her designee, will provide written notice to the PMC Member representatives that a dispute exists within fifteen (15) business days of the Legal Subcommittee Chair's receipt of written notice that such a dispute exists.

10.1.2. For purposes of this Section 10.1, those Members directly or indirectly involved on either side of any such dispute are referred to individually as a "Disputing Member" and collectively, as the "Disputing Members."

977 **10.1.3.** To facilitate the completion of the Regional Transmission Plan in
978 accordance with the WestConnect Regional Planning Process, disputes over
979 any matter shall be raised timely.

980 **10.1.4.** Upon receipt of a Written Notice of Dispute, the Legal
981 Subcommittee shall perform the responsibilities set forth in Section 8.4.3.
982 The Legal Subcommittee Chair may assist the Disputing Member(s) with
983 informal negotiation to resolve the dispute and may, in his or her discretion,
984 ask Member representatives on the Legal Subcommittee and/or the PMC to
985 assist with the informal negotiations. Disputing Members are to bear their
986 own respective costs related to their pursuit or resolution of disputes under
987 this Section 10.1. If the Disputing Members do not resolve the dispute
988 through informal negotiations within 10 business days after receipt of the
989 Written Notice of Dispute (unless extended by the Legal Subcommittee), the
990 Legal Subcommittee Chair shall make a recommendation to the PMC for
991 resolution (which recommendation may take the form of PMC action or
992 inaction). The Legal Subcommittee has discretion to submit the dispute to the
993 PMC for resolution, and decisions made by the PMC shall be made in
994 accordance with the voting structure described in Section 8.5, above. If a
995 Disputing Member is not satisfied with the PMC's resolution, or if the PMC
996 does not act within sixty (60) calendar days, it may invoke the provisions in
997 Section 10.2 governing disputes between a Member and the PMC.

998 **10.1.5.** The dispute resolution process in this Section 10.1 is without
999 prejudice to a Disputing Member's rights under Section 206 of the Federal
1000 Power Act to file a complaint with the FERC at any time or pursue resolution

of its dispute at any time in any legal forum with jurisdiction to hear it; provided, however, that no Member waives its rights to contest that such legal forum lacks jurisdiction or is not the appropriate venue. Further, nothing in this Section 10 is intended to prevent the executive management of the Disputing Members from becoming involved at an earlier period of the dispute, including but not limited to the outset of such dispute(s). Moreover nothing in this Section 10 limits any other informal communications and other attempts to resolve a dispute at the earliest possible time.

10.2. Disputes Between a Member(s) and the PMC.

10.2.1. A Member with a dispute against the PMC, where the dispute arises from a PMC Decision or otherwise within the scope of this Agreement, that Member shall send a Written Notice of Dispute to the Legal Subcommittee Chair. Such notice must set forth in adequate detail the nature of the dispute and the solution sought. The Legal Subcommittee Chair, or his/her designee, will provide written notice to the PMC Member representatives that a dispute exists within fifteen (15) business days of the Legal Subcommittee Chair's receipt of written notice that such a dispute exists. Upon receipt of a Written Notice of Dispute, the Legal Subcommittee shall perform the responsibilities set forth in Section 8.4.3.

If the dispute is not resolved informally, the Legal Subcommittee shall submit the dispute to the PMC for resolution, and decisions made by the PMC shall be made in accordance with the voting structure described in Section 8.5. If a Disputing Member is not satisfied with the PMC's resolution, it may pursue resolution of its

dispute in any legal forum with jurisdiction to hear it; provided, however, that no Member waives its rights to contest that such legal forum lacks jurisdiction or is not the appropriate venue. Notwithstanding the foregoing, and to the fullest extent permitted by law, Members may agree to irrevocably waive any and all rights to a trial by jury, and may agree not to request a trial by jury, with respect to a legal proceeding arising out of, under, or in connection with a PMC Decision or otherwise within the scope of this Agreement. This waiver of right to trial by jury, however, shall not apply to the extent that the U.S. Department of Justice, as a Federal Member's legal representative in any legal proceeding arising out of, under, or in connection with a PMC Decision or otherwise within the scope of this Agreement wishes to pursue a trial by jury in any such legal proceeding. In addition, any Disputing Member(s) may call for submission of the dispute to binding arbitration upon unanimous consent of all PMC Members. In the event all PMC Members unanimously agree to submit the dispute to binding arbitration, the procedures set forth in Attachment A shall apply. To the extent that FERC has jurisdiction over the dispute, the Disputing Member(s) retains its rights to file a complaint under the relevant provisions of the Federal Power Act, and such Disputing Member(s) is not required to complete the dispute resolution process in this Section 10.2 before filing such a complaint. Nothing in this Agreement shall be deemed to waive, limit or impair in any degree the exemption of any Non-Public Utility Member from FERC's jurisdiction under the Federal Power Act or to submit any Non-Public Utility Member to the jurisdiction of FERC. For purposes of Section 10.2, those Member(s) adverse to the PMC are referred to

individually as a “Disputing Member” and collectively, as the “Disputing Members.”

10.2.2. Expenses Incurred to Defend and/or Resolve Disputes. Any and all necessary expenses that may be incurred by the PMC in defending the PMC or any of its Member(s) against a Disputing Member’s adverse claim arising from a PMC Decision or otherwise within the scope of this Agreement (e.g., in defense of PMC actions or inactions), and in resolving any such claim or dispute, whether through a formal or informal proceeding, including, without limitation, any expenses related to the arbitration or the settlement of the dispute,² will be shared among the Member Sectors, and among the Members within each Member Sector, as follows: The TOLSO Member Sector will be responsible for 66 percent of legal defense expenses, and all other Member Sectors, except the SRC Member Sector, will be responsible for the remaining 34 percent of such expenses. For the 66 percent of expenses assigned to the TOLSO Member Sector, the expenses will be shared pro rata among the Members in the Sector, based upon the number of Members in the Sector. For the 34 percent of expenses assigned to the ITDO, TC and KIG Member Sectors, the expenses will be shared among the Sectors equally, and then within each Sector, the expenses will be divided pro rata among the Members of that Sector, based upon the number of Members in the Sector.

10.2.3. The obligations set forth in this Section 10.2 shall apply only to the extent that the dispute arises from a PMC Decision or otherwise within the scope

² Legal defense expenses subject to sharing among the PMC Member Sectors as provided in this Section 10.2 includes, for example, the cost of outside counsel and consultants retained by the PMC for the purpose of defending the PMC against adverse claims. It does not include the cost of any individual Member’s in-house counsel or other in-house staff resources participating and supporting the defense effort.

of this Agreement and shall not impose an obligation upon any Member to cooperate and defend or pay for any expenses related to disputes that do not arise from a PMC Decision or otherwise within the scope of this Agreement. The PMC has discretion to deviate from the percentage split of legal defense costs shown above in situations in which a Member Sector is so sparsely populated at the time of the allocation such that the allocation would result in a substantially disproportionate and unfair burden on a single Member or Member Sector. In addition, the PMC has discretion to deviate from the pro rata sharing of legal defense costs within a Member Sector in order to exempt from the cost sharing the Disputing Member complainants. Disputing Member complainants shall bear their own legal costs in pursuit of their claims against the PMC.

10.2.4. The provisions of this Section 10.2 shall survive the termination of this Agreement or withdrawal or expulsion of a Member, who was an active Member at the time of the initiation of a dispute.

10.3. Disputes Between the PMC and Third Parties (Non-Members).

10.3.1. Member Cooperation. If an individual or entity that is not a Member brings a claim in any state or federal court or administrative proceeding against the PMC or any Member(s) challenging a PMC Decision or otherwise arising within the scope of this Agreement, the dispute shall be submitted to the Legal Subcommittee for review and to provide the PMC a recommendation(s) as to its suggested course of action in accordance with the provisions of Section 8.4.3. Members will support, and cooperate with, to the extent reasonably practical and allowed by law, the Member(s) named in the dispute, and/or the PMC, in defending the actions of the PMC, which cooperation may involve, as

applicable, intervention or interpleading in any formal proceeding relating to the dispute and/or joint defense of the dispute, retention of outside counsel to represent a joint defense and payment of legal fees and expenses incurred as a result of such joint defense.

10.3.2. Expenses Incurred to Defend and/or Resolve Disputes with Non-

Members. Any and all necessary expenses that may be incurred by the PMC in defending PMC Member(s) and/or the PMC as a whole against any adverse claim arising from a PMC Decision or otherwise arising within the scope of this Agreement, and in resolving any such claim or dispute, whether through a formal or informal proceeding, including, without limitation, any expenses related to the arbitration or the settlement of the dispute,³ will be shared among the Member Sectors, as follows: The TOLSO Member Sector will be responsible for 66 percent of legal defense expenses, and all other Member Sectors, except the SRC Member Sector, will be responsible for the remaining 34 percent of such expenses. For the 66 percent of expenses assigned to the TOLSO Member Sector, the expenses will be shared pro rata among the Members in the sector, based upon the number of Members in the Sector. For the 34 percent of expenses assigned to the ITDO, TC and KIG Member Sectors, the expenses will be shared among the sectors pro rata, and then within each sector, the expenses will be divided pro rata among the Members of that sector, based upon the number of Members in the Sector.

³ Legal defense expenses subject to sharing among the PMC Member Sectors as provided in this Section 10.3 includes, for example, the cost of outside counsel and consultants retained by the PMC for the purpose of defending the PMC against adverse claims. It does not include the cost of any individual Member's in-house counsel or other in-house staff resources participating and supporting the defense effort.

The obligations set forth in this Section 10.3 shall apply only to the extent that the dispute arises from a PMC Decision or otherwise within the scope of this Agreement and shall not impose an obligation upon any Member to cooperate and defend or pay for any expenses related to disputes that do not arise from a PMC Decision or otherwise within the scope of this Agreement. The PMC has discretion to deviate from the percentage split of legal defense costs shown above in situations in which a Member Sector is so sparsely populated at the time of the allocation such that the allocation would result in a substantially disproportionate and unfair burden on a single Member or Member Sector.

10.3.3. The provisions of this Section 10.3 shall survive the termination of this Agreement or withdrawal or expulsion of a Member, who was an active Member at the time of the initiation of a dispute.

10.4. General Availability of Rights Granted in the Federal Power Act. The dispute resolution process in this Section 10 is without prejudice to a Disputing Member's rights under Section 206 of the Federal Power Act to file a complaint with the FERC at any time.

10.5 Alleged Violations of Individual OATTs By Individual Members.

Allegations that any TOLSO Member violated its individual OATT in a manner other than pursuant to a PMC Decision or otherwise under this Agreement, shall be handled in accordance with the dispute resolution procedures in the applicable individual TOLSO Member's OATT or, if applicable, in some other manner as appropriate, and will not impact or concern the other Members.

11. LIMITATION OF LIABILITY; DAMAGES

1138 **11.1.** This Agreement creates contractual rights and obligations solely between
1139 and among the Members. As between and among Members, specific performance
1140 shall be the sole remedy available to the PMC or any of its Members, and the PMC
1141 and its Members shall not be liable for monetary damages of any kind whatsoever,
1142 whether direct, compensatory, special, indirect, consequential, or punitive. In
1143 addition, nothing in this Agreement shall create any duty, liability, or standard of care
1144 whatsoever as to any third party. No third party shall have any rights whatsoever
1145 with respect to enforcement of any provision of this Agreement, and no monetary
1146 damages of any kind whatsoever, whether direct, compensatory, special, indirect,
1147 consequential, or punitive shall be available or awarded to any third party.

1148 **11.2.** In the event that, notwithstanding the fact that third parties lack any rights
1149 whatsoever under this Agreement, damages stemming from PMC or PMC-Member
1150 conduct arising under this Agreement are awarded to a third-party plaintiff by a court
1151 of competent jurisdiction, or other adjudicatory body, no Member is obligated to pay
1152 the legal liability adjudicated against another Member. There is no joint liability
1153 under this Agreement and each PMC Member is an individual obligor, liable for only
1154 its portion of the relevant obligation. This Agreement does not impose upon any
1155 Member the obligation to indemnify any other Member, and no Member is liable for
1156 another Member's own acts or omissions or conduct in performing its obligations
1157 under this Agreement.

1158 **12. MISCELLANEOUS**

1159 **12.1. Entire Agreement.** This Agreement constitutes and expresses the entire
1160 understanding among the Members with respect to the subject matter hereof, and

1161 supersedes all prior agreements and understandings, inducements, commitments or
1162 conditions, express or implied, oral or written.

1163 **12.2. Appendices and Exhibits.** The Appendices and Exhibits hereto together
1164 with all attachments referenced therein, are incorporated herein by reference and
1165 made a part of this Agreement.

1166 **12.3. Notices.** All notices, consents, waivers and other communications required
1167 or permitted by this Agreement to be given to another Member or to a Committee or
1168 Sub-Committee or designated recipient of the PMC will be in writing and will be
1169 deemed to have been given when (a) delivered to the other Member's business
1170 address personally, by messenger, by a nationally or internationally recognized
1171 overnight delivery service or otherwise, (b) sent to the other Member by facsimile, e-
1172 mail or other electronic transmission, with confirmation of transmission by the
1173 transmitting equipment; or (c) received or rejected by the other Member, if sent by
1174 certified mail, return receipt requested, in each case, addressed to the other Member
1175 at its business address, facsimile number or email address identified on the signature
1176 pages of this Agreement.

1177 **12.4. Amendments.** Neither this Agreement nor any provision hereof may be
1178 amended or modified other than by action of the PMC under the voting procedures
1179 set forth in this Agreement. This Agreement may be modified by an affirmative vote
1180 of the PMC pursuant to the provisions of Section 8.5 of this Agreement provided that
1181 the proposed modification has been presented for discussion at two consecutive PMC
1182 meetings prior to conducting the vote. At such time that a modification has been
1183 approved by the PMC, all Members will make reasonable efforts to execute the
1184 agreement as soon as possible, with all executions due within ninety (90) days of

PMC approval of such modification; provided, however, that if a Member notifies the PMC Chair that it is withdrawing its participation in this Agreement pursuant to Section 5.6.1 or 5.6.8, such Member shall be under no obligation to execute the modified agreement. The effective date of modifications to the Agreement will be established so as to align with planning process budget cycles unless the urgency of the modification dictates otherwise. No individual Member may be bound by a modified version of this Agreement prior to having executed it.

12.5. Consistency with Laws and Regulations. Nothing in this Agreement shall compel any Member to (i) violate federal, state or local statutes or regulations, tariffs, orders or other legal obligations; or (ii) in the case of a Governmental Authority or instrumentality, to exceed its statutory authority, as defined by any applicable statutes, regulations, or orders lawfully promulgated thereunder. If any provision of this Agreement is contrary to any obligation imposed on any Member by federal, state, or local law or regulation, to that extent it shall be inapplicable to that Member. No Member shall incur any liability by failing to comply with a provision of this Agreement that is inapplicable to it by reason of being contrary to any statutes, regulations or orders lawfully promulgated thereunder; provided, however, that such Member shall comply with the Agreement to the extent that applicable laws, regulations and orders lawfully promulgated thereunder permit it to do so.

12.6. Severability of Provisions. The provisions of this Agreement are independent of and separable from each other. If any provision of this Agreement shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision

hereof, but this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

12.7. Assignments and Successors. No Member may assign any of its rights or delegate any of its duties or obligations under this Agreement, except that any Member may, without the consent of the other Members, assign its rights and delegate its duties and obligations under this Agreement to a successor to which all or substantially all of the assets of such Member shall be transferred or to an affiliate of the assigning Member for the purposes of a corporate restructuring, provided, however, that in each such case, the successor or affiliate is eligible for membership in the same Member Sector as the assignor under the governing membership criteria for that Member Sector and has executed this Agreement, and, if required, made all necessary filings in connection with any applicable regulatory approvals. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon, and inure to the benefit of, the successors and permitted assigns of the Members.

12.8. Rules of Interpretation. This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Member, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any applicable laws and regulations means such applicable

laws and regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article, Section or Appendix to this Agreement; (6) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

12.9. Headings. The descriptive headings of the various articles, sections, or appendices of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

12.10. No Association, Joint Venture, Agency or Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship or partnership among the Members or to impose any partnership obligations or partnership liability upon any Member. The duties and obligations of the Members are several and not joint. Notwithstanding anything to the contrary in this Agreement, this Agreement shall at all times be conditioned upon the Members obtaining all regulatory approvals from the appropriate federal, state, and/or local regulatory authorities or agencies that each Member determines, in its sole discretion, to be required to enter into, to perform or consummate the activities contemplated hereunder.

12.11. No Third Party Beneficiaries. Nothing expressed or referred to in this Agreement will be construed to give any person other than the Members any legal or

equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to Section 12.7 (Assignments and Successors).

12.12. No Implied Waivers. The failure of a Member to insist upon or enforce strict performance of any of the specific provisions of this Agreement at any time shall not be construed as a waiver or relinquishment to any extent of such Member's right to assert or rely upon any such provisions, rights, or remedies in that or any other instance, or as a waiver to any extent of any specific provision of this Agreement; rather the same shall be and remain in full force and effect.

12.13. Collective Effort. Preparation of this Agreement has been a collective effort of the Members and the resulting document shall not be construed more severely against one of the Members than against the others and no provision in this Agreement is to be interpreted for or against any Member because that Member or its counsel drafted such provision. Each Member acknowledges that in executing this Agreement it has relied solely on its own judgment, belief and knowledge, and such advice as it may have received from its own counsel, and it has not been influenced by any representation or statement made by the other Members or their counsel not contained in this Agreement.

12.14. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Arizona, except to the extent preempted by federal law, and without regard to the State of Arizona's conflicts of law principles.

12.14.1 FERC Role in Dispute Resolution. Disputes directly relating to the Members' compliance with their OATTs that are not resolved in the Arizona state appellate process and all disputes relating to matters that fall within the exclusive

1280 jurisdiction of FERC shall be reviewed at FERC pursuant to the Federal Power
1281 Act if such review is sought by a Member.

1282 **12.15. Conflicts.** In the event of any conflict between provisions of this
1283 Agreement and any policies, procedures, governing or guiding documents developed
1284 by the PMC and its committees and workgroups, the terms of this Agreement shall
1285 prevail. Further, the Parties acknowledge that this Agreement may be subject to
1286 filing, review, approval and subsequent modifications directed by competent
1287 authorities with jurisdiction over any one or more of the Parties. If any such
1288 modifications directed by a competent authority with jurisdiction over any one or
1289 more of the Parties conflicts with the current version of this Agreement, the Parties
1290 will seek to amend the Agreement pursuant to Section 12.4.

1291 **12.16. Authority.** This Agreement is a legal, valid and binding obligation of such
1292 Member, enforceable against such Member in accordance with its terms. By signing
1293 this Agreement, each Member signifies that it has the right, power and authority to
1294 enter into this Agreement, to become a Member hereto and to perform its obligations
1295 hereunder.

1296 **12.17. Counterparts.** This Agreement may be executed in one or more
1297 counterparts, each of which will be deemed to be an original copy of this Agreement
1298 and all of which, when taken together, will be deemed to constitute one and the same
1299 agreement. The exchange of copies of this Agreement and of signature pages by
1300 facsimile or email shall constitute effective execution and delivery of this Agreement
1301 as to the Members and may be used in lieu of the original Agreement for all purposes.
1302 Signatures of the Members transmitted by facsimile or email shall be deemed to be
1303 their original signatures for all purposes.

1304 **13. PARTICIPATION BY THE GOVERNMENT OF THE UNITED STATES**

1305 **13.1. Subject to Acts of Congress.** The performance by any Federal Member of its
1306 obligations contained in this Agreement, including but not limited to Section 10, shall
1307 be subject to applicable Federal laws and regulations, including, but not limited to,
1308 Acts of Congress approved June 17, 1902 (32 Stat. 388), December 22, 1944 (58
1309 Stat. 887), August 4, 1977 (91 Stat. 565), and Acts amendatory or supplementary to
1310 the foregoing Acts, the National Environmental Policy Act (NEPA), the Anti-
1311 Deficiency Act, 31 U.S.C. 1341, the Freedom of Information Act, the Federal Tort
1312 Claims Act, 28 U.S.C. 1346 and 2671-2680, and the Debt Collection Act, 31 U.S.C.
1313 3701 *et seq.*

1314 **13.2. Contingent Upon Appropriations.** Where activities provided for in the
1315 contract extend beyond the current fiscal year, continued expenditures by the Federal
1316 Members are contingent upon Congress making the necessary appropriations
1317 required for the continued performance of the Federal Member's obligations under
1318 the contract. In case such appropriation is not made, each other Member hereby
1319 releases the Federal Member from its contractual obligations and from all liability
1320 due to the failure of Congress to make such appropriation.

1321 **13.3. No Expansion Of Jurisdiction, Waiver Of Defenses, Liability For**

1322 **Penalties, Or Inconsistent Obligations.** By entering into this Agreement, Federal
1323 Member has not waived or conceded any defense it may have, including sovereign
1324 immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any
1325 action against it by an Enforcement Authority, nor has Federal Member accepted any
1326 liability, responsibility, or obligation to pay any civil monetary penalties or fines to
1327 which it would not have been subject in the absence of this Agreement that may be

1328 imposed by an Enforcement Authority. Enforcement Authority in this Agreement
1329 means the Federal Energy Regulatory Commission (FERC), Electric Reliability
1330 Organization (ERO), or Regional Entities with enforcement authority pursuant to a
1331 delegation from an ERO or FERC for the purpose of proposing and enforcing
1332 reliability standards.

1333 **IN WITNESS WHEREOF**, the Members have executed this Agreement in duplicate
1334 originals, each of which shall constitute and be an original effective Agreement between
1335 the Members.

MEMBER SECTOR NOTIFICATION

NAME (LEGAL NAME OF ENTITY/NOT REPRESENTATIVE): _____

MEMBER SECTOR ELECTION (check one)

- ☐ Transmission Owner with Load Serving Obligations
 - ☐ ETO
 - ☐ CTO
- ☐ Independent Transmission Developer or Owner
- ☐ Key Interest Group
- ☐ State Regulatory Commission
- ☐ Transmission Customer

MEMBER'S REPRESENTATIVE:

NAME

CONTACT INFORMATION

BUSINESS ADDRESS, PHONE, E-MAIL

MEMBER ALTERNATE REPRESENTATIVE

NAME

CONTACT INFORMATION

BUSINESS ADDRESS, PHONE, E-MAIL

Representative information may be updated by written notice to the Chair of the PMC.

I certify that the entity on behalf of whom I am submitting this Notification is eligible for the Member Sector identified above.

Proposed effective date of membership: _____

Signature

Print Name

Date

ATTESTATION PURSUANT TO SECTION 6.4.2

I, _____, certify that I am authorized to execute this Attestation for _____ [identify Member Entity]; that I am familiar with the subject of this Attestation; and that to the best of my information, knowledge and belief, the operating budget for _____ [Member Entity] for the current year, _____ [identify year], qualifies it for a discounted dues level of \$ _____, as permitted under Section 6.4.2 of the WestConnect Planning Participation Agreement.

Signature

Print Name

Title

Date

Attachment A

Arbitration Procedures

A1. The Member calling for arbitration shall give written notice to all other Members, setting forth in such notice in adequate detail the nature of the dispute, the amount or amounts, if any, involved in such dispute and the remedy sought by such arbitration proceedings. Within fifteen (15) business days from receipt of such notice any other Member may, by written notice to all Members, prepare its own statement of the matter at issue and set forth in adequate detail additional related matters or issues to be arbitrated. Thereafter, the Member first submitting its statement of the matter at issue shall have ten (10) business days in which to submit a rebuttal statement, copies of which shall be given to all Members.

A2. Within ten (10) business days following the submission of the rebuttal statement, the Members who have prepared statements of the issue pursuant to Section A1 (the "Disputing Members") shall meet for the purpose of selecting arbitrators. Each Disputing Member (or group of Disputing Members) representing one side of the dispute shall designate an arbitrator from the Energy Arbitrators' List ("Energy Arbitrators' List") managed and administered by the International Centre for Dispute Resolution, the international division of the American Arbitration Association. The arbitrators so selected shall meet within fifteen (15) business days following their selection and shall jointly select one additional arbitrator, for a total of three (3) arbitrators on the panel. If the arbitrators selected by the Disputing Members, as herein provided, shall fail to select such additional arbitrator within said fifteen (15) business day period, then the arbitrators shall take turns striking names from the Energy Arbitrators' List and the last name remaining on said list shall be the

additional arbitrator. The arbitrators shall be persons skilled and experienced in the field which gives rise to the dispute and no person shall be eligible for appointment as an arbitrator who is an officer, director, employee or otherwise owns, controls (whether by voting rights or otherwise) or is controlled by, any of the Members.

A3. Except as otherwise provided in this **Attachment A**, the arbitration shall be governed by the rules and practice of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not at that time exist) from time to time in force.

A4. Discovery shall be permitted in accordance with the provisions of this **Attachment A, Section A4** and the Federal Rules of Civil Procedure, as then in effect ("FRCP").

A4.1. All decisions of the arbitrators regarding discovery are to be consistent with the principles of proportionality set forth in Rule 26(b)(2)(C) of the FRCP.

A4.2. The time allowed for discovery shall be set by the arbitrators, consistent with the expedited nature of arbitration and the principles of proportionality set forth in the FRCP.

A4.3. Documents to be produced shall include electronically stored information, if relevant and pertinent.

A4.3.1. Unless the native format is proprietary to the producing Member, electronically stored information shall be produced in native format, unless the Disputing Members agree otherwise or the arbitrators decide otherwise, for good cause shown.

A4.3.2. Requests for documents in addition to the initial disclosures may be permitted by the arbitrators, for good cause shown.

A4.3.3. Depositions are discouraged, but up to five per side may be permitted by the arbitrators, for good cause shown.

A4.3.3.1. If depositions are permitted, witnesses who are employees, agents or consultants of Disputing Members shall be made to appear voluntarily, by the respective Disputing Members.

A4.3.4. Disclosures shall be made consistent with FRCP 26(a)(2)(B), for any witness who will be providing evidence as an expert.

A4.3.4.1. Depositions of expert witnesses may be permitted by the arbitrators, for good cause shown.

A4.3.4.2. If depositions of experts are allowed, the arbitrators shall apply the principles of FRCP 26(b)(4)(E).

A4.3.5. The arbitrators shall hear evidence submitted by the respective Disputing Members. The time for the hearing will be divided substantially evenly among the respective sides. In determining the allocation, time for cross-examination by a Disputing Member will be included with time for direct examination by that Disputing Member.

A4.3.6. This agreement to arbitrate shall be specifically enforceable and the decision of the arbitrators shall be final and binding upon the Disputing Members, except as provided in this Attachment A, to the extent permitted by applicable law. Any award rendered pursuant to this Attachment A may be filed with the clerk of any court having jurisdiction over one or more of the Disputing Members against whom the award is rendered, and, upon such filing, such award, to the extent

permitted by the laws of the jurisdiction in which said award is filed, shall be specifically enforceable or shall form the basis of a declaratory judgment or other similar relief.

A4.3.7. Notwithstanding the provisions of Attachment A, Section A4.3.6, Disputing Member(s) may appeal the arbitrators' decision on the basis of fraud, neutral arbitrator bias, or collusion between arbitrators. Such appeal may be brought in any court of competent jurisdiction no later than 90 days following the date the arbitrators issue their decision. Notice of any such appeal must be provided to the Disputing Member(s) in writing within five (5) business days following the filing of any such appeal.

A4.3.8. The administrative fees and other fees and expenses of the arbitration and the arbitrators shall be paid as provided in Section 10 of the Agreement. The provisions of this Attachment A, Section A4.3.8 shall survive the termination of this Agreement or withdrawal or expulsion of a Member from this Agreement.

A4.3.9. In the event that any Disputing Member attempts to institute or to carry out the provisions herein set forth in regard to arbitration, and such Disputing Member is not able to obtain a valid and enforceable arbitration decree, such Disputing Member shall be entitled to seek legal remedies, both in law and equity, in a court having jurisdiction over the matter.

A4.4. Notwithstanding anything to the contrary set forth in this Attachment A, the Disputing Members may suspend and/or extend any of the timeframes set

forth in this Attachment A and/or suspend any arbitration proceeding by written agreement among each of the Disputing Members to allow for settlement discussions among the Disputing Members. Any pending arbitration proceeding shall be deemed terminated if (i) the dispute is filed in a court, at the FERC, and/or in any other forum, whether administrative or judicial, and is found by such court, FERC or other forum, as applicable, to be within its jurisdiction; or (ii) the Disputing Members reach a separate written settlement of the dispute and notify the other Members within ten (10) business days after the effective date of such settlement. In the event the arbitration proceeding is so terminated, all arbitration fees and expenses incurred up to the date of terminating the arbitration shall be subject to Attachment A, Section 4.3.8.

EXHIBIT A

Signatories to the WestConnect Planning Participation Agreement

[Signature pages to be maintained by the PMC]

Name of Member Organization

CITY OF LOS ANGELES, acting by and through the
DEPARTMENT OF WATER AND POWER

By: BOARD OF WATER AND POWER COMMISSIONERS

Signature

Marcie L. Edwards

Print Name

General Manager

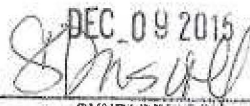
Title

Date

And:

Barbara E. Moschos
Board Secretary

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

DEC 09 2015
BY 
SYNDI DRISCOLL
DEPUTY CITY ATTORNEY