

AMENDED AND RESTATED TRANSMISSION CONTROL
AGREEMENT

Among
The California Independent System Operator Corporation
and
Transmission Owners

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AMENDED AND RESTATED TRANSMISSION CONTROL AGREEMENT
Among
The California Independent System Operator Corporation
and
Transmission Owners

The Parties to this amended and restated Transmission Control Agreement (“Agreement”) originally effective as of March 31, 1998, are

(1) The California Independent System Operator Corporation, a California nonprofit public benefit corporation (“CAISO,” which expression includes its permitted successors); and

(2) Entities owning or holding Entitlements to transmission lines and associated facilities who subscribe to this Agreement (“Transmission Owners” or “TOs”, which expression includes their permitted successors and assigns).

This Agreement is made with reference to the following facts:

(i) The Legislature of the State of California enacted Assembly Bill 1890 (“AB 1890”) that addressed the restructuring of the California electric industry in order to increase competition in the provision of electricity.

(ii) AB 1890 provides the means for transforming the regulatory framework of California's electric industry in ways to meet the objectives of the law.

(iii) In order to create a new market structure, AB 1890 establishes an independent system operator with centralized control of a state-wide transmission grid charged with ensuring the efficient use and reliable operation of the transmission system.

(iv) AB 1890 states that it is the intention of the California Legislature that California transmission owners commit control of their transmission facilities to the

CAISO with the assurances provided in the law that the financial interests of such TOs will be protected.

(v) Each TO: (1) owns, operates, and maintains transmission lines and associated facilities; and/or (2) has Entitlements to use certain transmission lines and associated facilities, with responsibilities attached thereto.

(vi) Each TO, upon satisfying the criteria for becoming a Participating TO under Section 2.2 of this Agreement, will transfer to the CAISO Operational Control of certain transmission lines and associated facilities and/or Entitlements, which are to be incorporated by the CAISO into the CAISO Controlled Grid for the purpose of allowing them to be controlled as part of an integrated Balancing Authority Area.

(vii) Each Participating TO will continue to own and maintain its transmission lines and associated facilities, if any, and will retain its Entitlements, if any, and associated responsibilities.

(viii) The CAISO intends to provide to each Participating TO access to the CAISO Controlled Grid while exercising its Operational Control for the benefit of all Market Participants by providing non-discriminatory transmission access, Congestion Management, grid security, and Balancing Authority Area services.

(ix) Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E"), and Southern California Edison Company ("Edison") (each a Participating TO) are entering into this agreement transferring Operational Control of their transmission facilities in reliance upon California Public Utilities Code Sections 367, 368, 375, 376, and 379 enacted as part of AB 1890 which contain assurances and schedules with respect to recovery of transition costs.

(x) The Parties desire to enter into this Agreement in order to establish the terms and conditions under which TOs will become Participating TOs and how the CAISO and each Participating TO will discharge their respective duties and responsibilities.

In consideration of the above and the covenants and mutual agreements set forth herein, and intending to be legally bound, the Parties agree as follows:

1. DEFINITIONS

Capitalized terms in this Agreement have the meaning set out in the Master Definitions Supplement set out in Appendix D. No subsequent amendment to the Master Definitions Supplement shall affect the interpretation of this Agreement unless made pursuant to Section 26.11.

2. PARTICIPATION IN THIS AGREEMENT

2.1. Transmission Owners:

2.1.1 Original Participating TOs.

The following entities are subscribing to this Agreement as of the date hereof for the purpose of applying to become Participating TOs in accordance with Section 2.2:

- i. Pacific Gas and Electric Company;
- ii. San Diego Gas & Electric Company; and
- iii. Southern California Edison Company.

2.1.2 Right to Become a Party.

After this Agreement takes effect, any other owner of or holder of

Entitlements to transmission lines and facilities connected to the CAISO Controlled Grid may apply to the CAISO under Section 2.2 to become a Participating TO and become a Party to this Agreement.

2.2. Applications for Participating TO Status; Eligibility Criteria.

2.2.1 Application Procedures. All applications under this Section 2.2 shall be made in accordance with the procedures adopted by the CAISO from time to time and shall be accompanied by:

- (i) a description of the transmission lines and associated facilities that the applicant intends to place under the CAISO's Operational Control;
- (ii) in relation to any such transmission lines and associated facilities that the applicant does not own, a copy of each document setting out the applicant's Entitlements to such lines and facilities;
- (iii) a statement of any Encumbrances to which any of the transmission lines and associated facilities to be placed under the CAISO's Operational Control are subject, together with any documents creating such Encumbrances and any dispatch protocols to give effect to them, as the CAISO may require;
- (iv) a statement that the applicant intends to place under the CAISO's Operational Control all of the transmission lines and associated facilities referred to in Section 4.1 that it owns or, subject to the treatment of Existing Contracts under Section 16 of the CAISO Tariff, to which it has Entitlements and its reasons for believing that certain lines and facilities do not form part of the applicant's transmission network pursuant to Sections 4.1.1.i and 4.1.1.ii;
- (v) a statement of any Local Reliability Criteria to be included as part

of the Applicable Reliability Criteria;

(vi) a description of the applicant's current maintenance practices;

(vii) a list of any temporary waivers that the applicant wishes the CAISO to grant under Section 5.1.6 and the period for which it requires them;

(viii) a copy of the applicant's proposed TO Tariff, if any, must be filed;

(ix) address and contact names to which notices under this Agreement may be sent pursuant to Section 26.1;

(x) any other information that the CAISO may reasonably require in order to evaluate the applicant's ability to comply with its obligations as a Participating TO; and

(xi) details of the applicant's intent to establish a settlement account.

2.2.2 Notice of Application. The CAISO shall require the applicant to deliver to each existing Participating TO a copy of each application under this Section 2.2 and each amendment, together with all supporting documentation, and to provide the public with reasonable details of its application and each amendment through the CAISO Website. The CAISO shall not grant an application for Participating TO status until it has given each other Party and the public sixty (60) days to comment on the original application and thirty (30) days to comment on each amendment.

2.2.3 Determination of Eligibility. Subject to Section 2.2.4, the CAISO shall permit a Party who has submitted an application under this Section 2.2 to become a Participating TO if, after considering all comments received from other Parties and third parties, the CAISO determines that:

i. the applicant's transmission lines and associated facilities,

including Entitlements, that are to be placed under the CAISO's Operational Control can be incorporated into the CAISO Controlled Grid without any material adverse impact on its reliability;

ii. incorporating such transmission lines and associated facilities and Entitlements into the CAISO Controlled Grid will not put the CAISO in breach of Applicable Reliability Criteria and its obligations as a member of WECC;

iii. objections by the CAISO under Section 4.1.3 shall have been withdrawn or determined by the CAISO Governing Board to be invalid;

iv. all applicable regulatory approvals of the applicant's TO Tariff have been obtained, which approvals shall specify that the effective date of the TO Tariff is the date that the CAISO assumes Operational Control of the applicant's transmission lines and associated facilities and Entitlements; and

v. the applicant is capable of performing its obligations under this Agreement.

Objections under Section 4.1.3 relating solely to a portion of a TO's facilities or Entitlements shall not prevent the TO from becoming a Participating TO while the objections are being resolved.

2.2.4 Challenges to Eligibility. The CAISO shall permit a Party to become a Participating TO pending the outcome of CAISO ADR Procedures challenging whether or not the applicant satisfies the criteria set out in Section 2.2.3 if the CAISO determines that the applicant satisfies those criteria unless otherwise ordered by FERC.

2.2.5 Becoming a Participating TO. A Party whose application under

this Section 2.2 has been accepted shall become a Participating TO with effect from the date when its TO Tariff takes effect and the CAISO assumes Operational Control of its transmission lines and associated facilities and Entitlements, either as a result of acceptance by FERC or by action of a Local Regulatory Authority, whichever is appropriate. The TO Tariff of each Participating TO shall be posted on the CAISO Website.

2.2.6 Procedures and Charges. The CAISO shall adopt fair and non-discriminatory procedures for processing applications under this Section 2.2. The CAISO shall publish its procedures for processing applications under this Section 2.2 on the CAISO Website and shall furnish a copy of such procedures to FERC. If the burden of processing applications under this Section 2.2 becomes significant, in the CAISO's judgment, the CAISO may establish an application fee. Applicants shall pay any application fee established by the CAISO as filed with and accepted by FERC for processing their applications. Nothing herein waives the right of any Party to object to or challenge the amount of the application fee established by the CAISO.

2.3. Tax Exempt Debt.

2.3.1 Municipal Tax Exempt TOs. In the event a Municipal Tax Exempt TO executes this Agreement in reliance upon this Section 2.3, it shall provide written notice thereof to the CAISO. Notwithstanding any other provision to the contrary herein, except for this Section 2.3, no other provisions of this Agreement shall become effective with respect to a Municipal Tax Exempt TO until such Municipal Tax Exempt TO's nationally recognized bond counsel renders an opinion, generally of the type regarded as unqualified in the bond market, that participation in the CAISO Controlled

Grid in accordance with this Agreement will not adversely affect the tax-exempt status of any Municipal Tax Exempt Debt issued by, or for the benefit of, the Municipal Tax Exempt TO. A Municipal Tax Exempt TO shall promptly seek, in good faith, to obtain such unqualified opinion from its bond counsel at the earliest opportunity. Upon receipt of such unqualified opinion, a Municipal Tax Exempt TO shall provide a copy of the opinion to the CAISO and all other provisions of this Agreement shall become effective with respect to such Municipal Tax Exempt TO as of the date thereof. If the Municipal Tax Exempt TO is unable to provide to the CAISO such unqualified opinion within one year of the execution of this Agreement by the Municipal Tax Exempt TO, without further act, deed, or notice this Agreement shall be deemed to be void *ab initio* with respect to such Municipal Tax Exempt TO.

2.3.2 **Acceptable Encumbrances.** A Transmission Owner that has issued Local Furnishing Bonds may become a Participating TO under Section 2.2 even though covenants or restrictions applicable to the Transmission Owner's Local Furnishing Bonds require the CAISO's Operational Control to be exercised subject to Encumbrances, provided that such Encumbrances do not materially impair the CAISO's ability to meet its obligations under the CAISO Tariff or the Transmission Owner's ability to comply with the TO Tariff.

2.3.3 **Savings Clause.** Nothing in this Agreement shall compel any Participating TO or Municipal Tax Exempt TO which has issued Tax Exempt Debt to violate restrictions applicable to transmission facilities financed with Tax Exempt Debt or contractual restrictions and covenants regarding use of transmission facilities.

3. EFFECTIVE DATE, TERM AND WITHDRAWAL

3.1. Effective Date.

This Agreement was originally effective as of March 31, 1998 and is amended and restated as of the date accepted for filing and made effective by FERC.

3.2. Term.

This Agreement shall remain in full force and effect until terminated: (1) by operation of law or (2) the withdrawal of all Participating TOs pursuant to Section 3.3 or Section 4.4.1.

3.3. Withdrawal.

3.3.1 **Notice.** Subject to Section 3.3.3, any Participating TO may withdraw from this Agreement on two years' prior written notice to the other Parties. In addition, Western Area Power Administration ("Western") may be required to withdraw as a Participating TO pursuant to Section 26.14.1.

3.3.2 **Sale.** Subject to Section 3.3.3, any Participating TO may withdraw from this Agreement if that Participating TO sells or otherwise disposes of all of the transmission facilities and Entitlements that the Participating TO placed under the CAISO's Operational Control, subject to the requirements of Section 4.4.

3.3.3 **Conditions of Withdrawal.** Any withdrawal from this Agreement pursuant to Section 3.3.1 or Section 3.3.2 shall be contingent upon the withdrawing party obtaining any necessary regulatory approvals for such withdrawal. The withdrawing Participating TO shall make a good faith effort to ensure that its withdrawal does not unduly impair the CAISO's ability to meet its Operational Control responsibilities as to the facilities remaining within the CAISO Controlled Grid.

3.3.4 **Publication of Withdrawal Notices.** The CAISO shall inform the public through the CAISO Website of all notices received under this Section 3.3.

3.4 Withdrawal Due to Adverse Tax Action.

3.4.1 **Right to Withdraw Due To Adverse Tax Action.** Subject to Sections 3.4.2 through 3.4.4, in the event an Adverse Tax Action Determination identifies an Impending Adverse Tax Action or an Actual Adverse Tax Action, a Tax Exempt Participating TO may exercise its right to Withdraw for Tax Reasons. The right to Withdraw for Tax Reasons, in accordance with the provisions of this Section 3.4, shall not be subject to any approval by the CAISO, the FERC, or any other Party.

3.4.2 Adverse Tax Action Determination.

3.4.2.1 A Tax Exempt Participating TO shall provide to all other Parties written notice of an Adverse Tax Action Determination and a copy of the Tax Exempt Participating TO's (or its joint action agency's) nationally recognized bond counsel's opinion or an IRS determination supporting such Adverse Tax Action Determination. Such written notice shall be provided promptly under the circumstances, but in no event more than 15 Business Days from the date of receipt of such documents.

3.4.2.2 The Adverse Tax Action Determination shall include (i) the actual or projected date of the Actual Adverse Tax Action and (ii) a description of the transmission lines, associated facilities, or Entitlements that were financed in whole or in part with proceeds of the Tax Exempt Debt that is the subject of such Adverse Tax Action Determination. A Tax Exempt Participating TO shall promptly notify all other Parties in writing in the event the actual or projected date of the Actual Adverse Tax Action changes. The Tax Exempt Participating TO's determination of the actual or

projected date of the Actual Adverse Tax Action shall be binding upon all Parties.

3.4.2.3 Any transmission lines, associated facilities, or Entitlements of the Tax Exempt Participating TO not identified in both the Adverse Tax Action Determination and the written notice of Withdrawal for Tax Reasons shall remain under the CAISO's Operational Control.

3.4.3 **Withdrawal Due to Impending Adverse Tax Action.** A Tax Exempt Participating TO may Withdraw for Tax Reasons prior to an Actual Adverse Tax Action if such Tax Exempt Participating TO provides prior written notice of its Withdrawal for Tax Reasons to all other Parties as required in Sections 3.4.3(i) through 3.4.3(iv).

i. In the event the date of the Adverse Tax Action Determination is seven months or more from the projected date of the Actual Adverse Tax Action, then a Tax Exempt Participating TO that exercises its right to Withdraw for Tax Reasons shall provide prior written notice of its Withdrawal for Tax Reasons to all other Parties at least six months in advance of the projected date of the Actual Adverse Tax Action.

ii. In the event the date of the Adverse Tax Action Determination is less than seven months but more than two months from the projected date of the Actual Adverse Tax Action, then a Tax Exempt Participating TO that exercises its right to Withdraw for Tax Reasons shall provide prior written notice of its Withdrawal for Tax Reasons to all other Parties at least 30 days in advance of the projected date of the Actual Adverse Tax Action.

iii. In the event the date of the Adverse Tax Action Determination is between two months and one month from the projected date of the Actual Adverse Tax

Action, then a Tax Exempt Participating TO that exercises its right to Withdraw for Tax Reasons shall provide prior written notice of its Withdrawal for Tax Reasons to all other Parties at least 15 days in advance of the projected date of the Actual Adverse Tax Action.

iv. In the event the date of the Adverse Tax Action Determination is less than one month from the projected date of the Actual Adverse Tax Action, then a Tax Exempt Participating TO shall have up to 15 days following the date of the Adverse Tax Action Determination to exercise its right to Withdraw for Tax Reasons, and if so exercised shall provide no later than one day thereafter written notice of its Withdrawal for Tax Reasons to all other Parties.

v. With respect to Sections 3.4.3(i) through 3.4.3(iii), upon receipt by the CAISO of a notice to Withdraw for Tax Reasons, the CAISO shall promptly begin working with the applicable Tax Exempt Participating TO to relinquish the CAISO's Operational Control over the affected transmission lines, associated facilities, or Entitlements to such Tax Exempt Participating TO, provided that such Operational Control must be relinquished by the CAISO no later than five days prior to the projected date of the Actual Adverse Tax Action. With respect to Section 3.4.3(iv), (1) if the notice of Withdrawal for Tax Reasons is received by the CAISO at least six days prior to the projected date of the Actual Adverse Tax Action, Operational Control over the affected transmission lines, associated facilities, or Entitlements must be relinquished by the CAISO to such Tax Exempt Participating TO no later than five days prior to the projected date of the Actual Adverse Tax Action, or (2) if the notice of Withdrawal for Tax Reasons is received by the CAISO any time after six days prior to the projected

date of the Actual Adverse Tax Action, the CAISO shall on the next day relinquish Operational Control over the affected transmission lines, associated facilities, or Entitlements to such Tax Exempt Participating TO.

3.4.4 Withdrawal Due to Actual Adverse Tax Action. In addition to the foregoing, upon the occurrence of an Actual Adverse Tax Action, the affected Tax Exempt Participating TO may immediately Withdraw for Tax Reasons. The Tax Exempt Participating TO shall have up to 15 days from the date of the Adverse Tax Action Determination with respect to an Actual Adverse Tax Action to exercise its right to Withdraw for Tax Reasons. If the Tax Exempt Participating TO determines to exercise its right to Withdraw for Tax Reasons, upon receipt of the notice of Withdrawal for Tax Reasons, the CAISO shall immediately relinquish Operational Control over the affected transmission lines, associated facilities, or Entitlements to such Tax Exempt Participating TO.

3.4.5 Alternate Date To Relinquish Operational Control. Notwithstanding anything to the contrary in this Section 3.4, the CAISO and a Tax Exempt Participating TO who has provided a notice of Withdrawal for Tax Reasons may mutually agree in writing to an alternate date that the CAISO shall relinquish Operational Control over the affected transmission lines, associated facilities, or Entitlements to such Tax Exempt Participating TO. If the CAISO or a Tax Exempt Participating TO who has provided a notice of Withdrawal for Tax Reasons desires an alternate date from the date provided in Sections 3.4.3(i) through 3.4.3(v)(1) for the CAISO to relinquish Operational Control over the affected transmission lines, associated facilities, or Entitlements to such Tax Exempt Participating TO, such Party

promptly shall give written notice to the other, and each agrees to negotiate in good faith, for a reasonable period of time, to determine whether or not they can reach mutual agreement for such an alternate date; provided, however, such good faith negotiations are not required to be conducted during the five days preceding the date provided in Sections 3.4.3(i) through 3.4.3(v)(1) for the CAISO to relinquish Operational Control over the affected transmission lines, associated facilities, or Entitlements.

3.4.6 Procedures to Relinquish Operational Control. The CAISO shall implement a procedure jointly developed by all Parties to relinquish Operational Control over the affected transmission lines, associated facilities, or Entitlements as provided in this Section 3.4.

3.4.7 Right to Rescind Notice of Withdrawal for Tax Reasons. At any time up to two days prior to the CAISO's relinquishment to the Tax Exempt Participating TO of Operational Control over the affected transmission lines, associated facilities, or Entitlements, a Tax Exempt Participating TO may rescind its notice of Withdrawal for Tax Reasons by providing written notice thereof to all other Parties, and such notice shall be effective upon receipt by the CAISO.

3.4.8 Amendment of Agreement. Following the relinquishment by the CAISO of Operational Control of any affected transmission lines, associated facilities, or Entitlements in accordance with this Section 3.4, the CAISO promptly shall prepare the necessary changes to this Agreement and to the CAISO Tariff (if any), make a filing with FERC pursuant to Section 205 of the FPA, and take whatever other regulatory action, if any, that is required to properly reflect the Withdrawal for Tax Reasons.

3.4.9 Provision of Information by CAISO. To assist Tax Exempt

Participating TOs in identifying at the earliest opportunity Impending Adverse Tax Actions or Actual Adverse Tax Actions, the CAISO promptly shall provide to Participating TOs any non-confidential information regarding any CAISO plans, actions, or operating protocols that the CAISO believes might adversely affect the tax-exempt status of any Tax Exempt Debt issued by, or for the benefit of, a Tax Exempt Participating TO.

3.4.10 **Publication of Notices.** The CAISO shall inform the public through the CAISO Website of all notices received under this Section 3.4.

4. TRANSFER OF OPERATIONAL CONTROL

4.1. TO Facilities and Rights Provided to the CAISO.

4.1.1 **CAISO Controlled Grid.** Subject to Section 4.1.2 and the treatment of Existing Contracts under Section 16 of the CAISO Tariff and subject to the applicable interconnection, integration, exchange, operating, joint ownership, and joint participation agreements, each Participating TO shall place under the CAISO's Operational Control the transmission lines and associated facilities forming part of the transmission network that it owns or to which it has Entitlements, except that Western shall only be required to place under the CAISO's Operational Control the transmission lines and associated facilities that it owns or to which it has Entitlements as set forth in Appendix A (Western). The Original Participating TOs identified in Section 2.1.1 shall be deemed to have placed such transmission lines and associated facilities and Entitlements under the CAISO's Operational Control as of the date the CPUC or its delegate declares to be the start date for direct access pursuant to CPUC Decisions 97-12-131 and 98-01-053. An applicant to become a Participating TO shall provide the

CAISO notice of the transmission lines and associated facilities that it owns or to which it has Entitlements in its application pursuant to Section 2. An existing Participating TO shall provide the CAISO notice of any new transmission lines, associated facilities, or Entitlements that it proposes to make part of its transmission network and to turn over to the CAISO's Operational Control either (i) through the transmission planning process established pursuant to Sections 24 and 25 of the CAISO Tariff or (ii) by written notice pursuant to this Agreement. Any transmission lines or associated facilities or Entitlements that the CAISO determines not to be necessary to fulfill the CAISO's responsibilities under the CAISO Tariff in accordance with Section 4.1.3 of this Agreement shall not be treated as part of a Participating TO's network for the purposes of this Section 4.1. The CAISO shall provide an applicant to become a Participating TO notice of its determination not to accept a transmission line, associated facility, or Entitlement as part of a Participating TO's network for the purposes of this Section 4.1 in conjunction with its acceptance or rejection of that application. The CAISO shall provide an existing Participating TO notice of its determination whether or not to accept a transmission line, associated facility, or Entitlement as part of a Participating TO's network for the purposes of this Section 4.1 either (i) as part of the transmission planning process established pursuant to Sections 24 and 25 of the CAISO Tariff or (ii) by written notice in response to a written notice provided by the Participating TO. The CAISO shall recognize the rights and obligations of Participating TOs that are owners of or holders of Entitlements to jointly-owned facilities which are placed under the CAISO's Operational Control by one or more but not all of the joint owners or rights holders. The CAISO shall, in exercise of Operational Control transferred to it, ensure that the

operating obligations, as specified by the Participating TO pursuant to Section 6.4.2 of this Agreement, for the contracts referenced in Appendix B are performed. Any other terms of such contracts shall not be the responsibility of the CAISO. The following transmission lines and associated facilities, and Entitlements thereto, are also deemed not to form part of a Participating TO's transmission network:

i. directly assignable radial lines and associated facilities interconnecting generation (other than those facilities which may be identified from time to time interconnecting CAISO Controlled Grid Critical Protective Systems or Generating Units of Generators contracted to provide Black Start or Voltage Support) and

ii. lines and associated facilities classified as "local distribution" facilities in accordance with FERC's applicable technical and functional test and other facilities excluded consistent with FERC established criteria for determining facilities subject to CAISO Operational Control.

4.1.2 Transfer of Facilities by Local Furnishing Participating TOs.

This Section 4.1.2 is applicable only to the enlargement of transmission capacity by Local Furnishing Participating TOs. The CAISO shall not require a Local Furnishing Participating TO to enlarge its transmission capacity except pursuant to an order under Section 211 of the FPA directing the Local Furnishing Participating TO to enlarge its transmission capacity as necessary to provide transmission service as determined pursuant to Section 24.16 of the CAISO Tariff. If an application under Section 211 of the FPA is filed by an eligible entity (or the CAISO acting as its agent), the Local Furnishing Participating TO shall thereafter, within 10 days of receiving a copy of the

Section 211 application, waive its right to a request for service under Section 213(a) of the FPA and to the issuance of a proposed order under Section 212(c) of the FPA.

Upon receipt of a final order from FERC under Section 211 of the FPA that is no longer subject to rehearing or appeal, such Local Furnishing Participating TO shall enlarge its transmission capacity to comply with that FERC order and shall transfer to the CAISO Operational Control over its expanded transmission facilities in accordance with this Section 4.

4.1.3 Refusal of Facilities. The CAISO may refuse to exercise Operational Control over certain of an applicant's or a Participating TO's transmission lines, associated facilities, or Entitlements over which the CAISO does not currently exercise Operational Control if it determines that any one or more of the following conditions exist and it provides notice of its refusal in accordance with Section 4.1.1:

i. The transmission lines, associated facilities, or Entitlements do not meet or do not permit the CAISO to meet the Applicable Reliability Criteria and the applicant or Participating TO fails to give the CAISO a written undertaking to take all good faith actions necessary to ensure that those transmission lines, facilities, or Entitlements, as the case may be, meet the Applicable Reliability Criteria within a reasonable period from the date of the applicant's application under Section 2.2 or the Participating TO's notice to the CAISO of its intent to turn over Operational Control as determined by the CAISO.

ii. The transmission lines, associated facilities, or Entitlements are subject to Encumbrances that unduly impair the CAISO's ability to exercise its Operational Control over them in accordance with the CAISO Tariff and the applicant or

Participating TO fails to give the CAISO a written undertaking to negotiate in good faith to the extent permitted by the applicable contract the removal of the Encumbrances identified by the CAISO which preclude it from using unused capacity on the relevant transmission lines. If the applicant or Participating TO provides such written undertaking but is unable to negotiate the removal of such Encumbrances to the extent required by the CAISO, the ADR Procedures shall be used to resolve any disputes between the CAISO and the applicant or Participating TO. For this purpose, Non-Participating TOs may utilize CAISO ADR Procedures on a voluntary basis.

iii. The transmission lines, associated facilities, and Entitlements are located in a Balancing Authority Area outside of California, are operated under the direction of another Balancing Authority Area or independent system operator, and cannot be integrated into the CAISO Controlled Grid due to technical considerations.

If the CAISO refuses to accept any of an applicant's transmission lines, associated facilities, or Entitlements, then that applicant shall have the right to notify the CAISO within a reasonable period from being notified of such refusal that it will not proceed with its application under Section 2.2.

4.1.4 Facilities Initially Placed Under the CAISO's Operational Control. The transmission lines, associated facilities, and Entitlements which each Participating TO places under the CAISO's Operational Control on the date that this Agreement takes effect with respect to it shall be identified in Appendix A.

4.1.5 Warranties. Each Participating TO warrants that as of the date on which it becomes a Participating TO pursuant to Section 2.2.5:

i. the transmission lines and associated facilities that it is placing

under the CAISO's Operational Control and the Entitlements that it is making available for the CAISO's use are correctly identified in Appendix A (as amended in accordance with this Agreement); that the Participating TO has all of the necessary rights and authority to place such transmission lines and associated facilities under the CAISO's Operational Control subject to the terms and conditions of all agreements governing the use of such transmission lines and associated facilities; and that the Participating TO has the necessary rights and authority to transfer the use of such Entitlements to the CAISO subject to the terms and conditions of all agreements governing the use of such Entitlements;

ii. the transmission lines and associated facilities and Entitlements that it is placing under the CAISO's Operational Control are not subject to any Encumbrances except as disclosed in Appendix B (as amended in accordance with this Agreement);

iii. the transmission lines and associated facilities that it is placing under the CAISO's Operational Control meet the Applicable Reliability Criteria for the relevant Participating TO except as disclosed in writing to the CAISO. As to the Local Reliability Criteria component of the Applicable Reliability Criteria, each Participating TO has provided the CAISO with such information required to identify such Participating TO's Local Reliability Criteria.

4.2. The CAISO Register.

4.2.1 Register of Facilities Subject to CAISO Operational Control.

The CAISO shall maintain a register (the "CAISO Register") of all transmission lines, associated facilities, and Entitlements that are for the time being subject to the CAISO's

Operational Control. The CAISO Register shall also indicate those facilities over which the CAISO has asserted temporary control pursuant to Section 4.5.2 and whether or not the CAISO has commenced proceedings under Section 203 of the FPA in relation to them.

4.2.2 **Contents.** The CAISO Register shall disclose in relation to each transmission line and associated facility subject to the CAISO's Operational Control:

- i. the identity of the Participating TO responsible for its operation and maintenance and its owner(s) (if other than the Participating TO);
- ii. the date on which the CAISO assumed Operational Control over it and, in the case of transmission lines and associated facilities over which it has asserted temporary Operational Control, the date on which it relinquished Operational Control over it;
- iii. the date of any change in the identity of the Participating TO responsible for its operation and maintenance or in the identity of its owner; and
- iv. its applicable ratings.

4.2.3 **Updates.** In order to keep the CAISO Register current, each Participating TO shall submit a CAISO Register change for each addition or removal of a transmission line or associated facility or Entitlement from the CAISO's Operational Control or any change in a transmission line or associated facility's ownership, rating, or the identity of the responsible Participating TO. The CAISO shall review each CAISO Register change for accuracy and to assure that all requirements of this Agreement have been met. If the CAISO determines that a submitted CAISO Register change is accurate and meets all the requirements of this Agreement, the CAISO will modify the

CAISO Register to incorporate such change by the end of the next Business Day. The CAISO may determine that a CAISO Register change cannot be implemented due to (a) lack of clarity or necessary information, or (b) conflict between the revised rating and applicable contractual, regulatory, or legal requirements, including operating considerations, or other conflict with the terms of this Agreement. In such event, the CAISO promptly will communicate to the Participating TO the reason that the CAISO cannot implement the CAISO Register change and will work with the Participating TO in an attempt to resolve promptly the concerns leading to the CAISO's refusal to implement a CAISO Register change. The CAISO consent required with respect to a sale, assignment, release, transfer, or other disposition of transmission lines, associated facilities, or Entitlements as provided in Section 4.4 hereof shall not be withheld by the CAISO as a result of a CAISO determination that a CAISO Register change cannot be implemented pursuant to this Section 4.2.3.

4.2.4 **Publication.** The CAISO shall make the CAISO Register information for a given Participating TO available to that same Participating TO on a secure CAISO-maintained portion of the CAISO Website. The CAISO will provide a copy of the CAISO Register information to other entities that can demonstrate a legitimate need for the information in accordance with screening procedures posted on the CAISO Website and filed with FERC.

4.2.5 **Duty to Maintain Records.** The CAISO shall maintain the CAISO Register in a form that conveniently shows the entities responsible for operating, maintaining, and controlling the transmission lines and associated facilities forming part of the CAISO Controlled Grid at any time and the periods during which they were so

responsible.

4.3. Rights and Responsibilities of Participating TOs.

Each Participating TO shall retain its benefits of ownership and its rights and responsibilities in relation to the transmission lines and associated facilities and Entitlements placed under the CAISO's Operational Control except as otherwise provided in this Agreement. Participating TOs shall be responsible for operating and maintaining those lines and facilities in accordance with this Agreement, the Applicable Reliability Criteria, the Operating Procedures, and other criteria, CAISO Protocols, procedures, and directions of the CAISO issued or given in accordance with this Agreement. Rights and responsibilities that have not been transferred to the CAISO as operating obligations under Section 4.1.1 of this Agreement remain with the Participating TO. This Agreement shall have no effect on the remedies for breach or non-performance available to parties to existing interconnection, integration, exchange, operating, joint ownership, and joint participation agreements. Notwithstanding the foregoing or any other provision in this Agreement, the Parties recognize that a Participating TO under this Agreement may have entered into a Reliability Standards Agreement ("RSA"), or similar agreement, with the CAISO that allocates responsibility and delegates tasks for compliance with NERC or WECC Reliability Standard requirements, or how those requirements will be implemented. In the event that the CAISO and a Participating TO have a dispute regarding a Participating TO's satisfaction of or compliance with any obligations or responsibilities under this Agreement, and either Party asserts that it has executed an RSA or similar agreement with the other Party that sets forth inconsistent or conflicting obligations or responsibilities, then the

CAISO and that Participating TO shall engage in good faith negotiations to resolve the alleged inconsistent or conflicting obligations or responsibilities.

4.4. Sale or Disposal of Transmission Facilities or Entitlements.

4.4.1 Sale or Disposition.

4.4.1.1 No Participating TO shall sell or otherwise dispose of any lines or associated facilities forming part of the CAISO Controlled Grid without the CAISO's prior written consent, which consent shall not be unreasonably withheld.

4.4.1.2 As a condition to the sale or other disposition of any lines or associated facilities forming part of the CAISO Controlled Grid to an entity that is not a Participating TO, the Participating TO shall require the transferee to assume in writing all of the Participating TO's obligations under this Agreement (but without necessarily requiring it to become a Participating TO for the purposes of the CAISO Tariff or a TO Tariff).

4.4.1.3 Any subsequent sale or other disposition by a transferee referred to in Section 4.4.1.2 shall be subject to this Section 4.4.1.

4.4.1.4 A transferee referred to in Section 4.4.1.2 that does not become a Participating TO shall have the same rights and responsibilities regarding withdrawal that a Participating TO has under Sections 3.3.1 and 3.3.3.

4.4.2 **Entitlements.** No Participating TO shall sell, assign, release, or transfer any Entitlements that have been placed under the CAISO's Operational Control without the CAISO's prior written consent, which consent shall not be unreasonably withheld, provided that such written consent is not required for such release or transfer to another Participating TO who is not in any material respect in breach of its obligations

under this Agreement and who has not given notice of its intention to withdraw from this Agreement.

4.4.3 Encumbrances. No Participating TO shall create any new Encumbrance or (except as permitted by Section 16 of the CAISO Tariff) extend the term of an existing Encumbrance over any lines or associated facilities or Entitlements forming part of its transmission network (as determined in accordance with Section 4.1.1) without the CAISO's prior written consent. The CAISO shall give its consent to the creation or extension of an Encumbrance within thirty (30) days after receiving a written request for its consent disclosing in reasonable detail the nature of and reasons for the proposed change unless the CAISO reasonably determines that the change is inconsistent with the Participating TO's obligations under the CAISO Tariff or the TO Tariff or that the change may materially impair the CAISO's ability to exercise Operational Control over the relevant lines or facilities or Entitlements or may reduce the reliability of the CAISO Controlled Grid. Exercise of rights under an Existing Contract shall not be deemed to create a new Encumbrance for the purposes of this Section 4.4.3.

4.4.4 Trans Bay Cable

4.4.4.1 In addition to the foregoing, the CAISO, Trans Bay Cable LLC ("Trans Bay Cable"), and the Participating TOs acknowledge and agree that, following the CAISO's approval of Trans Bay Cable's application for Participating TO status and upon the effective date of Trans Bay Cable's TO Tariff as approved by FERC, Trans Bay Cable shall be entitled and obligated to recover the just and reasonable costs of developing, financing, constructing, operating, and maintaining transmission assets and

associated facilities forming part of the network in which it has Entitlements through Trans Bay Cable's Transmission Revenue Requirement as established from time to time by FERC, including the specific rate principles approved by FERC in Docket No. ER05-985, to the extent that the transmission assets and associated facilities used to provide the Entitlements, as well as the Entitlements themselves, are placed under CAISO Operational Control.

4.4.4.2 In reliance on the continued availability of a FERC-approved Transmission Revenue Requirement, as set forth above, Trans Bay Cable will not withdraw from this Agreement except in connection with the transfer, sale, or disposition of any of its Entitlements in compliance with Sections 3.3, 4.4, and any other applicable provision of this Agreement.

4.4.4.3 If Trans Bay Cable should seek to transfer, sell, or dispose of its Entitlements or any part thereof, then in addition to any and all other obligations imposed on such a transfer, sale, or disposition by this Agreement, any applicable provisions of the CAISO Tariff, and FERC rules and regulations, Trans Bay Cable shall require as a condition of such transfer, sale, or disposition that the transferee of any of its Entitlement(s): (a) assume in writing Trans Bay Cable's rights and obligations under this Agreement, including without limitation all of the obligations imposed by this Section 4.4.4, *e.g.*, the obligation to recover the just and reasonable costs of developing, financing, constructing, operating, and maintaining transmission assets and associated facilities forming part of the network in which it has Entitlements, as set forth in Section 4.4.4.1, exclusively through a FERC-approved Transmission Revenue Requirement; (b) become a Participating TO in the CAISO; and (c) assume the obligation to bind each

and every one of its transferees, successors, and assigns to all of the obligations assumed by Trans Bay Cable under this Agreement. For the avoidance of doubt, the transfer of any of Trans Bay Cable Entitlements cannot take place unless and until the holder of any such Entitlements has, in conjunction with the transfer, become a Participating TO in the CAISO.

4.4.4.4 For the avoidance of doubt, the Parties hereby also confirm that the Operating Memorandum dated May 16, 2005, between Trans Bay Cable, the City of Pittsburg, California, and Pittsburg Power Company and filed by Trans Bay Cable in Docket No. ER05-985, including the option agreement contained therein, does not address or pertain to any transfer, disposition, sale, or purchase of any of Trans Bay Cable's Entitlements.

4.4.4.5 Nothing in this Section 4.4.4 shall be interpreted as affecting the right of any party to seek to increase or decrease, at the FERC or appeals therefrom, the established or proposed Transmission Revenue Requirement of Trans Bay Cable or any subsequent holder of any of the Entitlements.

4.4.4.6 Notwithstanding the foregoing subsections of Section 4.4.4, this Section 4.4.4 shall become null and void in the event of and upon the first to occur of: (a) Trans Bay Cable receives for three (3) consecutive months either an underpayment, pursuant to Section 11.29.19.6 of the CAISO Tariff, or a pro rata reduction in payments under Section 11.29.17.1 of the CAISO Tariff, with each such underpayment or pro rata reduction equal to or greater than twenty percent (20%) of the monthly amount due and owing to Trans Bay Cable from the CAISO, or (b) Trans Bay Cable receives either an underpayment, pursuant to Section 11.29.19.6 of the CAISO Tariff, or a pro rata

reduction in payments under Section 11.29.17.1 of the CAISO Tariff which, when calculated on a cumulative annual basis, is equal to or greater than five percent (5%) of the total amount due and owing to Trans Bay Cable from the CAISO for the twelve (12) month period ending prior to the month or months in which such underpayment or pro rata reduction occurs, *provided* such an underpayment or pro rata reduction does not result from: (i) Access Charge sales fluctuations that impact the monthly Access Charge revenue disbursement to Trans Bay Cable, but which are subject to annual TRBA adjustment true-ups to be made by the Participating TO pursuant to Section 6.1 of Schedule 3 of Appendix F of the CAISO Tariff; (ii) Trans Bay Cable's action or failure to act; (iii) an error that has been corrected by the CAISO; or (iv) a billing or payment dispute between Trans Bay Cable and the CAISO.

4.4.4.7 Should this Section 4.4.4 become null and void under Section 4.4.4.6, then Trans Bay Cable, the CAISO, and the other Participating TOs shall remain bound by all of the remaining provisions of this Agreement.

4.4.5 **Startrans IO**

4.4.5.1 In addition to the foregoing, the CAISO, Startrans IO, L.L.C. ("Startrans IO"), and the Participating TOs acknowledge and agree that, following the CAISO's approval of Startrans IO's application for Participating TO status and upon the effective date of Startrans IO's TO Tariff as approved by FERC, Startrans IO shall be entitled and obligated to recover the just and reasonable costs of developing, financing, constructing, operating, and maintaining transmission assets and associated facilities forming part of the network in which it has transmission rights and Entitlements through Startrans IO's Transmission Revenue Requirement as established from time to time by

FERC, including the specific rate principles approved by FERC in Docket No. ER08-413, to the extent that the transmission assets and associated facilities used to provide the transmission rights and Entitlements, as well as the transmission rights and Entitlements themselves, are placed under CAISO Operational Control.

4.4.5.2 In reliance on the continued availability of a FERC-approved Transmission Revenue Requirement, as set forth above, Startrans IO will not withdraw from this Agreement except in connection with the transfer, sale, or disposition of any of its transmission rights and Entitlements in compliance with Sections 3.3, 4.4, and any other applicable provision of this Agreement.

4.4.5.3 If Startrans IO should seek to transfer, sell, or dispose of its transmission rights and Entitlements or any part thereof, then in addition to any and all other obligations imposed on such a transfer, sale, or disposition by this Agreement, any applicable provisions of the CAISO Tariff, and FERC rules and regulations, Startrans IO shall require as a condition of such transfer, sale, or disposition that the transferee of any of its transmission rights and Entitlement(s): (a) assume in writing Startrans IO's rights and obligations under this Agreement, including without limitation all of the obligations imposed by this Section 4.4.5, *e.g.*, the obligation to recover the just and reasonable costs of developing, financing, constructing, operating, and maintaining transmission assets and associated facilities forming part of the network in which it has transmission rights and Entitlements, as set forth in Section 4.4.5.1, exclusively through a FERC-approved Transmission Revenue Requirement; (b) become a Participating TO in the CAISO; and (c) assume the obligation to bind each and every one of its transferees, successors, and assigns to all of the obligations assumed by

Startrans IO under this Agreement. For the avoidance of doubt, the transfer of any of Startrans IO's transmission rights and Entitlements cannot take place unless and until the holder of any such transmission rights and Entitlements has, in conjunction with the transfer, become a Participating TO in the CAISO.

4.4.5.4 Nothing in this Section 4.4.5 shall be interpreted as affecting the right of any party to seek to increase or decrease, at the FERC or appeals therefrom, the established or proposed Transmission Revenue Requirement of Startrans IO or any subsequent holder of any of the transmission rights and Entitlements.

4.4.5.5 Notwithstanding the foregoing subsections of Section 4.4.5, this Section 4.4.5 shall become null and void in the event of and upon the first to occur of:

(a) Startrans IO receives for three (3) consecutive months either an underpayment, pursuant to Section 11.29.19.6 of the CAISO Tariff, or a pro rata reduction in payments under Section 11.29.17.1 of the CAISO Tariff, with each such underpayment or pro rata reduction equal to or greater than twenty percent (20%) of the monthly amount due and owing to Startrans IO from the CAISO, or (b) Startrans IO receives either an underpayment, pursuant to Section 11.29.19.6 of the CAISO Tariff, or a pro rata reduction in payments under Section 11.29.17.1 of the CAISO Tariff which, when calculated on a cumulative annual basis, is equal to or greater than five percent (5%) of the total amount due and owing to Startrans IO from the CAISO for the twelve (12) month period ending prior to the month or months in which such underpayment or pro rata reduction occurs, *provided* such an underpayment or pro rata reduction does not result from: (i) Access Charge sales fluctuations that impact the monthly Access Charge revenue disbursement to Startrans IO, but which are subject to annual TRBA

adjustment true-ups to be made by the Participating TO pursuant to Section 6.1 of Schedule 3 of Appendix F of the CAISO Tariff; (ii) Startrans IO's action or failure to act; (iii) an error that has been corrected by the CAISO; or (iv) a billing or payment dispute between Startrans IO and the CAISO.

4.4.5.6 Should this Section 4.4.5 become null and void under Section 4.4.5.5, then Startrans IO, the CAISO, and the other Participating TOs shall remain bound by all of the remaining provisions of this Agreement.

4.4.6 Citizens Sunrise Transmission LLC

4.4.6.1 In addition to the foregoing, the CAISO, Citizens Sunrise Transmission LLC ("Citizens Sunrise Transmission"), and the Participating TOs acknowledge and agree that, following the CAISO's approval of Citizens Sunrise Transmission's application for Participating TO status and upon the effective date of Citizens Sunrise Transmission's TO Tariff as approved by FERC, Citizens Sunrise Transmission shall be entitled and obligated to recover the just and reasonable costs of developing, financing, constructing, operating, and maintaining transmission assets and associated facilities forming part of the network in which it has an Entitlement through Citizens Sunrise Transmission's Transmission Revenue Requirement as established from time to time by FERC, including the specific rate principles approved by FERC in Docket No. EL10-3-000, to the extent that the transmission assets and associated facilities used to provide the Entitlement, as well as the Entitlement itself, are placed under CAISO Operational Control, all pursuant to the Development and Coordination Agreement of May 9, 2009 ("DCA") between San Diego Gas & Electric Company and Citizens Energy Corporation ("Citizens Energy") and the Transfer Capability Lease to be

executed in accordance therewith.

4.4.6.2 In reliance on the continued availability of a FERC-approved Transmission Revenue Requirement, as set forth above, Citizens Sunrise Transmission will not withdraw from this Agreement except in connection with (i) the transfer, sale, or disposition of its Entitlement in compliance with Sections 3.3, 4.4, and any other applicable provision of this Agreement or (ii) the withdrawal of San Diego Gas & Electric Company (the provider of Citizens Sunrise Transmission's Entitlement) from this Agreement in compliance with this Agreement.

4.4.6.3 If Citizens Sunrise Transmission should seek to transfer, sell, or dispose of its Entitlement or any part thereof, then in addition to any and all other obligations imposed on such a transfer, sale, or disposition by this Agreement, any applicable provisions of the CAISO Tariff, and FERC rules and regulations, Citizens Sunrise Transmission shall require as a condition of such transfer, sale, or disposition that the transferee of its Entitlement: (a) assume in writing Citizens Sunrise Transmission's rights and obligations under this Agreement, including without limitation all of the obligations imposed by this Section 4.4.6, *e.g.*, the obligation to recover the just and reasonable costs of developing, financing, constructing, operating, and maintaining transmission assets and associated facilities forming part of the network in which it has its Entitlements, as set forth in Section 4.4.6.1, exclusively through a FERC-approved Transmission Revenue Requirement; (b) become a Participating TO in the CAISO; and (c) assume the obligation to bind each and every one of its transferees, successors, and assigns to all of the obligations assumed by Citizens Sunrise Transmission under this Agreement. For the avoidance of doubt, the transfer of

Citizens Sunrise Transmission's Entitlement cannot take place unless and until the holder of such Entitlement has, in conjunction with the transfer, become a Participating TO in the CAISO. Notwithstanding the foregoing, this Section 4.4.6.3 shall not apply to any transfer, sale, or disposition of all or any part of Citizens Sunrise Transmission's Entitlement to San Diego Gas & Electric Company (in which case such Entitlement would continue to be subject to this Agreement as an Entitlement of San Diego Gas & Electric Company).

4.4.6.4 Nothing in this Section 4.4.6 shall be interpreted as affecting the right of any party to seek to increase or decrease, at the FERC or appeals therefrom, the established or proposed Transmission Revenue Requirement of Citizens Sunrise Transmission or any subsequent holder of any of the Entitlement.

4.4.6.5 Notwithstanding the foregoing subsections of Section 4.4.6, this Section 4.4.6 shall become null and void in the event of and upon the first to occur of: (a) Citizens Sunrise Transmission receives for three (3) consecutive months either an underpayment, pursuant to Section 11.29.19.6 of the CAISO Tariff, or a pro rata reduction in payments under Section 11.29.17.1 of the CAISO Tariff, with each such underpayment or pro rata reduction equal to or greater than twenty percent (20%) of the monthly amount due and owing to Citizens Sunrise Transmission from the CAISO, or (b) Citizens Sunrise Transmission receives either an underpayment, pursuant to Section 11.29.19.6 of the CAISO Tariff, or a pro rata reduction in payments under Section 11.29.17.1 of the CAISO Tariff which, when calculated on a cumulative annual basis, is equal to or greater than five percent (5%) of the total amount due and owing to Citizens Sunrise Transmission from the CAISO for the twelve (12) month period ending prior to

the month or months in which such underpayment or pro rata reduction occurs, provided such an underpayment or pro rata reduction does not result from: (i) Access Charge sales fluctuations that impact the monthly Access Charge revenue disbursement to Citizens Sunrise Transmission, but which are subject to annual TRBA adjustment true-ups to be made by the Participating TO pursuant to Section 6.1 of Schedule 3 of Appendix F of the CAISO Tariff; (ii) Citizens Sunrise Transmission's action or failure to act; (iii) an error that has been corrected by the CAISO; or (iv) a billing or payment dispute between Citizens Sunrise Transmission and the CAISO.

4.4.6.6 Should this Section 4.4.6 become null and void under Section 4.4.6.5, then Citizens Sunrise Transmission, the CAISO, and the other Participating TOs shall remain bound by all of the remaining provisions of this Agreement.

4.5. Procedure for Designating CAISO Controlled Grid Facilities.

4.5.1 **Additional Facilities.** If the CAISO determines that it requires Operational Control over additional transmission lines and associated facilities not then constituting part of the CAISO Controlled Grid in order to fulfill its responsibilities in relation to the CAISO Controlled Grid then the CAISO shall apply to FERC pursuant to Section 203 of the Federal Power Act, and shall make all other regulatory filings necessary to obtain approval for such change of control and shall serve a copy of all such applications on the affected Participating TO and the owner of such lines and facilities (if other than the Participating TO). In the event that a Party invokes the dispute resolution provisions identified in Section 15 with respect to the transfer of Operational Control over a facility, such facility shall not be transferred while the dispute

resolution process is pending except pursuant to Section 4.5.2.

4.5.2 Temporary Operational Control. The CAISO may exercise temporary Operational Control over any transmission lines or associated facilities of a Participating TO (including lines and facilities to which the Participating TO has sufficient Entitlement to permit the CAISO to exercise Operational Control over them) that do not then form part of the CAISO Controlled Grid:

- i. in order to prevent or remedy an imminent System Emergency;
- ii. on reasonable notice, for a period not exceeding ninety (90) days, in order to determine whether exercising Operational Control over the relevant lines and facilities will assist the CAISO to meet Applicable Reliability Criteria or to fulfill its Balancing Authority Area responsibilities under the CAISO Tariff; or
- iii. subject to any contrary order of FERC, pending the resolution of the procedures referenced in Section 4.5.1.

4.5.3 Return of Control of Facilities. Control of facilities over which the CAISO has assumed temporary Operational Control will be returned to the appropriate Participating TO when the conditions set forth in Section 4.5.2 no longer require the CAISO to assume such temporary control.

4.5.4 Transmission Expansion Projects. Any transmission expansion projects carried out pursuant to Section 24 of the CAISO Tariff shall be subject to the CAISO's Operational Control from the date that it goes into service or after such period as the CAISO deems to be reasonably necessary for the CAISO to integrate the project into the CAISO Controlled Grid.

4.6. [INTENTIONALLY LEFT BLANK]

4.7. Termination of CAISO's Operational Control.

4.7.1 **Release from CAISO's Operational Control.** Subject to Section 4.7.2, the CAISO may relinquish its Operational Control over any transmission lines and associated facilities constituting part of the CAISO Controlled Grid if, after consulting the Participating TOs owning or having Entitlements to them, the CAISO determines that it no longer requires to exercise Operational Control over them in order to meet its Balancing Authority Area responsibilities and they constitute:

- i. directly assignable radial lines and associated facilities interconnecting Generation (other than lines and facilities interconnecting CAISO Controlled Grid Critical Protective Systems or Generators contracted to provide Black Start or Voltage Support);
- ii. lines and associated facilities which, by reason of changes in the configuration of the CAISO Controlled Grid, should be classified as "local distribution" facilities in accordance with FERC's applicable technical and functional test, or should otherwise be excluded from the facilities subject to CAISO Operational Control consistent with FERC established criteria; or
- iii. lines and associated facilities which are to be retired from service in accordance with Good Utility Practice.

4.7.2 **Procedures.** Before relinquishing Operational Control over any transmission lines or associated facilities pursuant to section 4.7.1, the CAISO shall inform the public through the CAISO Website of its intention to do so and of the basis

for its determination pursuant to Section 4.7.1. The CAISO shall give interested parties not less than 45 days within which to submit written objections to the proposed removal of such lines or facilities from the CAISO's Operational Control. If the CAISO cannot resolve any timely objections to the satisfaction of the objecting parties and the Participating TOs owning or having Entitlements to the lines and facilities, such parties, Participating TOs, or the CAISO may refer any disputes for resolution pursuant to the CAISO ADR Procedures in Section 13 of the CAISO Tariff. Alternatively, the CAISO may apply to FERC for its approval of the CAISO's proposal.

4.7.3 Duty to Update CAISO Register. The CAISO shall promptly record any change in Operational Control pursuant to this Section 4.7 in the CAISO Register in accordance with Section 4.2.3.

5. INDEPENDENT SYSTEM OPERATOR

5.1. Balancing Authority.

5.1.1 CAISO as Balancing Authority. The CAISO shall be the designated Balancing Authority for the CAISO Controlled Grid.

5.1.2 Operational Control. The CAISO shall exercise Operational Control over the CAISO Controlled Grid for the purpose of:

- i. providing a framework for the efficient transmission of electricity across the CAISO Controlled Grid in accordance with the CAISO Tariff;
- ii. securing compliance with all Applicable Reliability Criteria;
- iii. scheduling transactions for Market Participants to provide open and non-discriminatory access to the CAISO Controlled Grid in accordance with the CAISO Tariff;

- iv. relieving Congestion; and
- v. to the extent provided in this Agreement, assisting Market

Participants to comply with other operating criteria, contractual obligations, and legal requirements binding on them.

5.1.3 **Duty of Care.** The CAISO shall have the exclusive right and responsibility to exercise Operational Control over the CAISO Controlled Grid, subject to and in accordance with Applicable Reliability Criteria and the operating criteria established by the NRC operating licenses for nuclear generating units as provided in Appendix E pursuant to Section 6.4.2. The CAISO shall take proper care to ensure the safety of personnel and the general public. It shall act in accordance with Good Utility Practice, applicable law, Existing Contracts, the CAISO Tariff, and the Operating Procedures. The CAISO shall not direct a Participating TO to take any action which would require a Participating TO to operate its transmission facilities in excess of their applicable rating as established or modified from time to time by the Participating TO pursuant to Section 6.4 except in a System Emergency where such a direction is consistent with Applicable Reliability Criteria.

5.1.4 **Operating Procedures.** The CAISO shall, in consultation with the Participating TOs and other Market Participants, promulgate Operating Procedures governing its exercise of Operational Control over the CAISO Controlled Grid in accordance with this Agreement. The CAISO shall provide copies of the Operating Procedures and all amendments, revisions, and updates to the Participating TOs and shall make them available to the public through the CAISO Website.

5.1.5 **Applicable Reliability Criteria.** The CAISO shall, in consultation

with Participating TOs and other Market Participants, develop and promulgate Applicable Reliability Criteria for the CAISO Controlled Grid, which shall be in compliance with the reliability standards promulgated by NERC and WECC, Local Reliability Criteria, and NRC grid criteria related to operating licenses for nuclear generating units. The CAISO shall provide copies of the Applicable Reliability Criteria and all amendments, revisions, and updates to the Participating TOs and shall make them available to the public through the CAISO Website.

5.1.6 **Waivers.** The CAISO may grant to any Participating TO whose transmission facilities do not meet the Applicable Reliability Criteria when it becomes a Party to this Agreement such waivers from the Applicable Reliability Criteria as the Participating TO reasonably requires to prevent it from being in breach of this Agreement while it brings its transmission facilities into full compliance. Such waivers shall be effective for such period as the CAISO shall determine. A Participating TO who has been granted a waiver made under this Section 5.1.6 shall bring its transmission facilities into compliance with the Applicable Reliability Criteria before the expiration of the relevant waivers and in any event as soon as reasonably practical.

5.1.7 **Operational Protocols.** In exercising Operational Control over the CAISO Controlled Grid, the CAISO shall comply with the operational protocols to be provided in accordance with Section 6.4.2, as they may be amended from time to time to take account of the removal and relaxation of any Encumbrances to which the CAISO Controlled Grid is subject. Participating TOs whose transmission lines and associated facilities or Entitlements are subject to Encumbrances shall make all reasonable efforts to remove or relax those Encumbrances in order to permit the operational protocols to

be amended in such manner as the CAISO may reasonably require, to the extent permitted by Existing Contracts and applicable interconnection, integration, exchange, operating, joint ownership, and joint participation agreements.

5.1.8 **System Emergencies.** In the event of a System Emergency, the CAISO shall have the authority and responsibility to take all actions necessary and shall direct the restoration of the CAISO Controlled Grid to service following any interruption associated with a System Emergency. The CAISO shall also have the authority and responsibility, consistent with Section 4 and Section 9, to act to prevent System Emergencies. Actions and directions by the CAISO pursuant to this Section 5.1.8 shall be consistent with Section 5.1.3, Duty of Care.

5.1.9 **Reporting Criteria.** The CAISO shall comply with the reporting requirements of the WECC, NERC, NRC and regulatory bodies having jurisdiction over it. Participating TOs shall provide the CAISO with information that the CAISO may require to meet this obligation.

5.2. Monitoring.

5.2.1 **System Requirements.** The CAISO shall establish reasonable metering, monitoring, and data collection standards and requirements for the CAISO Controlled Grid, consistent with WECC and NERC standards.

5.2.2 **System Conditions.** The CAISO shall monitor and observe real time system conditions throughout the CAISO Controlled Grid, as well as key facilities in other areas of the WECC region.

5.2.3 **Energy Management System.** The CAISO shall install a computerized Energy Management System (EMS) to monitor transmission facilities in

the CAISO Controlled Grid. A Participating TO may at its own expense and for its own internal management purposes install a read only EMS workstation that will provide the Participating TO with the same displays the CAISO uses to monitor the Participating TO's transmission facilities.

5.2.4 **Data.** Unless otherwise mutually agreed, the CAISO shall obtain real time monitoring data for the facilities listed in the CAISO Register from the Participating TOs through transfers to the CAISO of data available from the Energy Management Systems (EMS) of the Participating TOs.

5.3. [INTENTIONALLY LEFT BLANK]

5.4. Public Information.

5.4.1 **CAISO Website.** The CAISO shall develop a public information board on the CAISO Website for the CAISO Controlled Grid in accordance with the provisions in Section 6 of the CAISO Tariff.

5.4.2 **Access to CAISO Information.** The CAISO shall permit the general public to inspect and copy other information in its possession, other than information to be kept confidential under Section 26.3, provided that the costs of providing documents for inspection, including any copying costs, shall be borne by the requester.

5.5. Costs

The CAISO shall not implement any reliability requirements, operating requirements, or performance standards that would impose increased costs on a Participating TO without giving due consideration to whether the benefits of such requirements or standards are sufficient to justify such increased costs. In any

proceeding concerning the cost recovery by a Participating TO of capital and operation and maintenance costs incurred to comply with CAISO-imposed reliability requirements, operating requirements, or performance standards, the CAISO shall, at the request of the Participating TO, provide specific information regarding the nature of, and need for, the CAISO-imposed requirements or standards to enable the Participating TO to use this information in support of cost recovery through rates and tariffs.

6. PARTICIPATING TRANSMISSION OWNERS

6.1. Physical Operation of Facilities.

6.1.1 **Operation.** Each Participating TO shall have the exclusive right and responsibility to operate and maintain its transmission facilities and associated switch gear and auxiliary equipment (including facilities that it operates under Entitlements).

6.1.2 **CAISO Operating Orders.** Each Participating TO shall operate its transmission facilities in compliance with the CAISO Tariff, CAISO Protocols, the Operating Procedures (including emergency procedures in the event of communications failure), and the CAISO's operating orders unless the health or safety of personnel or the general public would be endangered. Proper implementation of a CAISO operating order by a Participating TO shall be deemed prudent. In the event a CAISO order would risk damage to facilities, and if time permits, a Participating TO shall inform the CAISO of any such risk and seek confirmation of the relevant CAISO order.

6.1.3 **Duty of Care.** In operating and maintaining its transmission facilities, each Participating TO shall take proper care to ensure the safety of personnel and the general public. It shall act in accordance with Good Utility Practice, applicable

law, the CAISO Tariff, CAISO Protocols, the Operating Procedures, and the Applicable Reliability Criteria.

6.1.4 **Outages.** Each Participating TO shall obtain approval from the CAISO pursuant to the CAISO Tariff before taking out of service and returning to service any facility identified pursuant to Section 4.2.1 in the CAISO Register, except in cases involving immediate hazard to the safety of personnel or the general public or imminent damage to facilities or in the case of a Forced Outage. The Participating TO shall promptly notify the CAISO of such situations.

6.1.5 **Return to Service.** After a System Emergency or Forced Outage, the Participating TO shall restore to service the transmission facilities under the CAISO's Operational Control as soon as possible and in the priority order determined by the CAISO. The CAISO's Operating Procedures shall give priority to restoring offsite power to nuclear generating units, in accordance with criteria specified by the Participating TOs under the design basis and licensing requirements of the NRC licenses applicable to such nuclear units and any other Regulatory Must-Run Generation whose operation is critical for the protection of wildlife and the environment.

6.1.6 **Written Report.** Within a reasonable time, the Participating TO shall provide the CAISO with a written report, consistent with Section 17, describing the circumstances and the reasons for any Forced Outage, including outages under Section 6.1.4.

6.2. Transmission Service.

6.2.1 **Compliance with Tariffs.** Participating TOs shall allow access to their transmission facilities (including any that are not for the time being under the

CAISO's Operational Control) only on the terms of the CAISO Tariff and the TO Tariff.

6.2.2 Release of Scheduling Rights. When required by the CAISO, a Participating TO shall release all of its scheduling rights over the transmission lines and associated facilities and Entitlements that are part of the CAISO Controlled Grid to the extent such rights are established through Existing Contracts among or between Participating TOs, as provided in the CAISO Tariff.

6.3. Other Responsibilities.

Each Participating TO shall inspect, maintain, repair, replace, and maintain the rating and technical performance of its facilities under the CAISO's Operational Control in accordance with the Applicable Reliability Criteria (subject to any waivers granted pursuant to Section 5.1.6) and the performance standards established under Section 14.

6.4. Technical Information and Protocols.

6.4.1 Information to be Provided. Each Participating TO shall provide to the CAISO prior to the effective date of its becoming a Party to this Agreement, and in a format acceptable to the CAISO:

- i. Technical specifications for any facilities under the CAISO's Operational Control, as the CAISO may require;
- ii. The applicable ratings of all transmission lines and associated facilities listed in Appendix A; and
- iii. A copy of each document creating an Entitlement or Encumbrance.

The Participating TO shall promptly notify the CAISO in writing or mutually

acceptable electronic format of any subsequent changes in such technical specifications, ratings, Entitlements, or Encumbrances.

6.4.2 Protocols for Encumbered Facilities. A Party that is placing a transmission line or associated facility (including an Entitlement) that is subject to an Encumbrance under the Operational Control of the CAISO shall develop protocols for its operation which shall: (1) reflect the rights the Party has in such facility, and (2) give effect to any Encumbrance on such facility. Such protocols shall be delivered to the CAISO for review not less than ninety (90) days prior to the date on which the CAISO is expected to assume Operational Control of any such facility. The CAISO shall review each protocol and shall cooperate with the relevant Party to assure that operations pursuant to the protocol are feasible and that the protocol is consistent with the applicable rights and Encumbrances. To the extent such protocol is required to be filed at FERC, the relevant Transmission Owner shall file such protocol not less than sixty (60) days prior to the date on which the CAISO is expected to assume Operational Control of the relevant facility. Protocols to implement the operating criteria established by the NRC operating licenses for nuclear generating units are provided in Appendix E.

6.5. EMS/SCADA System.

Each Participating TO shall operate and maintain its EMS/SCADA systems and shall allow the CAISO access to the Participating TO's data from such systems relating to the facilities under the CAISO's Operational Control. The CAISO, at its own cost, may, if it considers it necessary for the purpose of carrying out its responsibilities under this Agreement, acquire, install, and maintain additional monitoring equipment on any Participating TO's property.

6.6. Single Point Of Contact.

Each Participating TO shall provide the CAISO with an appropriate single point of contact for the coordination of operations under this Agreement.

7. SYSTEM OPERATION AND MAINTENANCE

7.1. Scheduled Maintenance.

The Parties shall forecast and coordinate Maintenance Outage plans in accordance with Section 9 of the CAISO Tariff.

7.2. Exercise of Contractual Rights.

In order to facilitate Maintenance Outage coordination of the CAISO Controlled Grid by the CAISO, each Participating TO shall, to the extent that the Participating TO has contractual rights to do so: (1) coordinate Maintenance Outages with non-Participating Generators; and (2) exercise its contractual rights to require maintenance by non-Participating Generators in each case in such manner as the CAISO approves or requests. The requirements of this Section 7.2 shall not apply to any non-Participating Generator with a rated capability of less than 50 MW.

7.3. Unscheduled Maintenance.

7.3.1 Notification. A Participating TO shall notify the CAISO of any faults on the CAISO Controlled Grid or any actual or anticipated Forced Outages as soon as it becomes aware of them, in accordance with Section 9.3.10 of the CAISO Tariff.

7.3.2 Returns to Service. The Participating TO shall take all steps necessary, consistent with Good Utility Practice and in accordance with the CAISO Tariff and CAISO Protocols, to prevent Forced Outages and to return to operation, as

soon as possible, any facility under the CAISO's Operational Control that is the subject of a Forced Outage.

8. CRITICAL PROTECTIVE SYSTEMS THAT SUPPORT CAISO CONTROLLED GRID OPERATIONS

8.1. Remedial Action Schemes, Underfrequency Load Shedding, Under Voltage Load Shedding.

Each Participating TO shall coordinate its Critical Protective Systems with the CAISO, other Transmission Owners, and Generators to ensure that its Remedial Action Schemes ("RAS"), Underfrequency Load Shedding ("UFLS"), and Under Voltage Load Shedding ("UVLS") schemes function on a coordinated and complementary basis in accordance with WECC and NERC planning, reliability, and protection policies and standards. Participating TOs that are parties to contracts affecting RAS, UFLS, and UVLS schemes shall make reasonable efforts to amend those contracts in order to permit the RAS, UFLS, and UVLS schemes to be operated in accordance with WECC and NERC planning, reliability, and protection policies and standards and the CAISO Tariff.

Each Participating TO, in conjunction with the CAISO, shall identify, describe, and provide to the CAISO the functionality of all RAS for electric systems operating at 200 kV nominal voltage or higher and any other lower voltage lines that the CAISO and Participating TO determine to be critical to the reliability of the CAISO Controlled Grid. Each Participating TO shall provide to the CAISO a description of the functionality of UFLS and UVLS schemes that protect the security and reliability of transmission facilities on the CAISO Controlled Grid.

Each Participating TO shall maintain the design, functionality, and settings of its existing RAS, UFLS, and UVLS schemes. New or existing schemes that are functionally modified must be in accordance with WECC and NERC planning, reliability, and protection policies and standards. Each Participating TO shall notify the CAISO in advance of all RAS, UFLS, and UVLS schemes functionality and setting changes that affect transmission facilities on the CAISO Controlled Grid. Each Participating TO shall not disable or take clearances on RAS or UVLS schemes without the approval of the CAISO through the Maintenance Outage and Forced Outage coordination process in accordance with the CAISO Tariff. Clearances on UFLS may be taken without approval depending upon the armed load disabled as agreed to between the Participating TO and CAISO and incorporated in the Operating Procedures.

The requirements of this Section 8.1 shall apply only to the transmission facilities that are part of the CAISO Controlled Grid.

8.2. Protective Relay Systems.

Each Participating TO shall provide to the CAISO protective relay system functional information necessary to perform system planning and operating analysis, and to operate transmission facilities on the CAISO Controlled Grid in compliance with WECC and NERC planning, reliability, and protection policies and standards.

The requirements of this Section 8.2 shall apply only to the transmission facilities that are part of the CAISO Controlled Grid.

9. SYSTEM EMERGENCIES

9.1. CAISO Management of Emergencies.

The CAISO shall manage a System Emergency pursuant to the provisions of Section 7.7 of the CAISO Tariff. The CAISO may carry out unannounced tests of System Emergency procedures pursuant to the CAISO Tariff.

9.2. Management of Emergencies by Participating TOs.

9.2.1 **CAISO Orders.** In the event of a System Emergency, the Participating TOs shall comply with all directions from the CAISO regarding the management and alleviation of the System Emergency unless such compliance would impair the health or safety of personnel or the general public.

9.2.2 **Communication.** During a System Emergency, the CAISO and Participating TOs shall communicate through their respective control centers, in accordance with the Operating Procedures.

9.3. System Emergency Reports: TO Obligations.

9.3.1 **Records.** Pursuant to Section 17, each Participating TO shall maintain appropriate records pertaining to a System Emergency.

9.3.2 **Review.** Each Participating TO shall cooperate with the CAISO in the preparation of an Outage review pursuant to Sections 7.7.13 and 9.3.10.6 of the CAISO Tariff and Section 17 of this Agreement.

9.4. Sanctions.

In the event of a major Outage that affects at least 10 percent of the customers of an entity providing local distribution service, the CAISO may order a Participating TO to pay appropriate sanctions, as filed with and approved by FERC in

accordance with Section 12.3, if the CAISO finds that the operation and maintenance practices of the Participating TO, with respect to its transmission lines and associated facilities that it has placed under the CAISO's Operational Control, prolonged the response time or were responsible for the Outage.

10. CAISO CONTROLLED GRID ACCESS AND INTERCONNECTION

10.1. CAISO Controlled Grid Access and Services.

10.1.1 **Access.** The CAISO shall respond to requests from the Participating TOs and other Market Participants for access to the CAISO Controlled Grid. All Participating TOs who have Eligible Customers connected to their transmission or distribution facilities that do not form part of the CAISO Controlled Grid shall ensure open and non-discriminatory access to those facilities for those Eligible Customers through the implementation of an open access tariff, provided that a Participating TO shall only be required to ensure open access to those facilities for End-Use Customers to the extent it is required by applicable law to do so or pursuant to a voluntary offer to do so.

10.2. Interconnection.

10.2.1 **Obligation to Interconnect.** The Parties shall be obligated to allow interconnection to the CAISO Controlled Grid in a non-discriminatory manner, subject to the conditions specified in this Section 10 and the applicable legal requirements.

10.2.2 **Standards.** All interconnections to the CAISO Controlled Grid shall be designed and built in accordance with Good Utility Practice, all Applicable Reliability Criteria, and applicable statutes and regulations.

10.2.3 **System Upgrades.** The treatment of system upgrades associated with requests for interconnection of generating facilities to the CAISO Controlled Grid shall be in accordance with the provisions of the CAISO Tariff. A Participating TO shall be entitled to require an entity requesting interconnection of a transmission facility or load to the CAISO Controlled Grid to pay for all necessary system reliability upgrades on its side of the interconnection and on the CAISO Controlled Grid, as well as for all required studies, inspection, and testing, to the extent permitted by FERC policy. The entity requesting such an interconnection shall be required to execute an interconnection agreement in accordance with the CAISO Tariff and the TO Tariff as applicable, provided that the terms of the CAISO Tariff shall govern to the extent there is any inconsistency between the CAISO Tariff and the TO Tariff, and must comply with all of their provisions, including provisions related to creditworthiness and payment for interconnection studies.

10.2.4 A Local Furnishing Participating TO shall not be obligated to construct or expand interconnection facilities or system upgrades unless and until the conditions stated in Section 4.1.2 hereof have been satisfied.

10.3. Interconnections Responsibilities.

10.3.1 **Applicability.** The provisions of this Section 10.3 shall apply only to those facilities and Entitlements over which a Participating TO has legal authority to effectuate proposed interconnections to the CAISO Controlled Grid. Where a Participating TO does not have the legal authority to compel interconnection, the Participating TO's obligations with respect to interconnections shall be as set forth in its FERC approved TO Tariff which shall contain an obligation for the Participating TO, at a

minimum, to submit or assist in the submission of expansion and/or interconnection requests from third parties to the appropriate bodies of a project pursuant to the individual project agreements to the full extent allowed by such agreements and the applicable laws and regulations.

10.3.2 Technical Standards. Each Participating TO shall develop technical standards for the design, construction, inspection, and testing applicable to proposed interconnections of transmission facilities or load to that part of the CAISO Controlled Grid facilities owned by the Participating TO or to which that Participating TO has Entitlements. Such standards shall be consistent with Applicable Reliability Criteria and shall be developed in consultation with the CAISO. The Participating TO shall periodically review and revise its criteria to ensure compliance with Applicable Reliability Criteria. Technical standards for the design, construction, inspection, and testing applicable to proposed interconnections of generating facilities to the CAISO Controlled Grid shall be developed in accordance with the provisions of the CAISO Tariff.

10.3.3 Review of Participating TO Technical Standards. Participating TOs shall provide the CAISO with copies of their technical standards for interconnection developed pursuant to Section 10.3.2 of this Agreement and all amendments so that the CAISO can satisfy itself as to their compliance with the Applicable Reliability Criteria. The CAISO shall develop consistent interconnection standards across the CAISO Controlled Grid, to the extent possible given the circumstances of each Participating TO, in consultation with Participating TOs. Any differences in interconnection standards shall be addressed through negotiations and dispute resolution proceedings, as set forth in the CAISO Tariff, between the CAISO and the Participating TO.

10.3.4 **Notice.** A list of the interconnection standards and procedures developed by each Participating TO pursuant to Section 10.3.2, including any revisions, shall be made available to the public through the CAISO Website. In addition, the posting will provide information on how to obtain the interconnection standards and procedures. The Participating TO shall provide these standards to any party, upon request.

10.3.5 **Interconnection.** Requests for interconnection of generating facilities to the CAISO Controlled Grid shall be processed in accordance with the provisions of the CAISO Tariff. Each Participating TO and the CAISO shall process requests for interconnection of transmission facilities or load to the CAISO Controlled Grid in accordance with the CAISO Tariff and the TO Tariff as applicable, provided that the terms of the CAISO Tariff shall govern to the extent there is any inconsistency between the CAISO Tariff and the TO Tariff. Any differences in the procedures for interconnection contained in the CAISO Tariff and the TO Tariff shall be addressed through negotiations and dispute resolution procedures, as set forth in the CAISO Tariff, between the CAISO and the Participating TO.

10.3.6 **Acceptance of Interconnection Facilities.** Acceptance of interconnection facilities related to interconnection of generating facilities to the CAISO Controlled Grid shall be in accordance with the provisions of the CAISO Tariff. With regard to interconnection facilities related to interconnection of transmission facilities or load to the CAISO Controlled Grid, the Participating TO shall perform all necessary site inspections, review all relevant equipment tests, and ensure that all necessary agreements have been fully executed prior to accepting interconnection facilities for

operation.

10.3.7 Collection of Payments. Payments related to interconnection of generating facilities to the CAISO Controlled Grid shall be processed in accordance with the provisions of the CAISO Tariff. With regard to payments related to interconnection of transmission facilities or load to the CAISO Controlled Grid, the Participating TO shall collect all payments owed under any interconnection study agreement or other agreement entered into pursuant to this Section 10.3 or the provisions of the CAISO Tariff and its TO Tariff as applicable relating to such interconnection.

10.3.8 On-Site Inspections. On-site inspections related to interconnection of generating facilities to the CAISO Controlled Grid shall be in accordance with the provisions of the CAISO Tariff. With regard to on-site inspections related to interconnection of transmission facilities or load to the CAISO Controlled Grid, the CAISO may at its own expense accompany a Participating TO during on-site inspections and tests of such interconnections or, by pre-arrangement, may itself inspect such interconnections or perform its own additional inspections and tests.

10.4 Joint Responsibilities.

The Parties shall process requests for interconnection of generating facilities to the CAISO Controlled Grid in accordance with the provisions of the CAISO Tariff. The Parties shall share with the CAISO relevant information about requests for interconnection of transmission facilities or load to the CAISO Controlled Grid and coordinate their activities to ensure that all such interconnection requests are processed in a timely, non-discriminatory fashion and that all such interconnections meet the operational and reliability criteria applicable to the CAISO Controlled Grid. Subject to

Section 26.3 of this Agreement, the CAISO shall pass on such information to any Parties who require it to carry out their responsibilities under this Agreement.

10.5 Interconnection Responsibilities of Western.

Notwithstanding any other provision of this Section 10, the responsibilities of Western to allow interconnection to its Path 15 Upgrade facilities and Entitlements set forth in Appendix A (Western) shall be as set forth in Western's General Requirements for Interconnection as those requirements are set forth in Western's TO Tariff or in Western's "Open Access Transmission Tariff" ("OATT"), as applicable. Western shall be subject to the provisions of this Section 10 to the extent they are not inconsistent with the provisions of Western's TO Tariff or OATT, as applicable. Execution of this Agreement shall not constitute agreement of any Party that Western is in compliance with FERC's regulations governing interconnections.

11. EXPANSION OF TRANSMISSION FACILITIES

The provisions of Sections 24 and 25 of the CAISO Tariff will apply to any expansion or reinforcement of the CAISO Controlled Grid affecting the transmission facilities of the Participating TOs placed under the Operational Control of the CAISO.

12. USE AND ADMINISTRATION OF THE CAISO CONTROLLED GRID

12.1. Use of the CAISO Controlled Grid.

Except as provided in Section 13, use of the CAISO Controlled Grid by the Participating TOs and other Market Participants shall be in accordance with the rates, terms, and conditions established in the CAISO Tariff and the Participating TO's TO

Tariff. Pursuant to Section 2 of the CAISO Tariff, transmission service shall be provided only to direct access and wholesale customers eligible under state and federal law.

12.2. Administration.

Each Participating TO transfers authority to the CAISO to administer the terms and conditions for access to the CAISO Controlled Grid and to collect, among other things, Congestion Management revenues, and Wheeling-Through and Wheeling-Out revenues.

12.3. Incentives and Penalty Revenues.

The CAISO, in consultation with the Participating TOs, shall develop standards and a mechanism for paying to and collecting from Participating TOs incentives and penalties that may be assessed by the CAISO. Such standards and mechanism shall be filed with FERC and shall become effective upon acceptance by FERC.

13. EXISTING AGREEMENTS

The provisions of Section 16 of the CAISO Tariff will apply to the treatment of transmission facilities of a Participating TO under the Operational Control of the CAISO which are subject to transmission service rights under Existing Contracts. In addition, the CAISO will honor the operating obligations as specified by the Participating TO, pursuant to Section 6.4.2 of this Agreement, including any provision of interconnection, integration, exchange, operating, joint ownership, and joint participation agreements, when operating the CAISO Controlled Grid.

14. MAINTENANCE STANDARDS

14.1. CAISO Determination of Standards.

The CAISO has adopted and shall maintain, in consultation with the Participating TOs through the Transmission Maintenance Coordination Committee, and in accordance with the requirements of this Agreement, the standards for the maintenance, inspection, repair, and replacement of transmission facilities under its Operational Control in accordance with Appendix C. These standards, as set forth in Appendix C, are and shall be performance-based or prescriptive or both, and provide for high quality, safe, and reliable service and shall take into account costs, local geography and weather, the Applicable Reliability Criteria, national electric industry practice, sound engineering judgment, and experience.

14.2. Availability.

14.2.1 **Availability Measure.** The CAISO performance-based standards shall be based on the availability measures described in Appendix C of this Agreement.

14.2.2 **Excluded Events.** Scheduled Approved Maintenance Outages and certain Forced Outages will be excluded pursuant to Appendix C of this Agreement from the calculation of the availability measure.

14.2.3 **Availability Measure Target.** The CAISO and each Participating TO shall jointly develop for the Participating TOs an availability measure target, which may be defined by a range. The target will be based on prior Participating TO performance and developed in accordance with Appendix C of this Agreement.

14.2.4 **Calculation of Availability Measure.** The availability measure shall be calculated annually by the Participating TO and reported to the CAISO for

evaluation of the Participating TO's compliance with the availability measure target.

This calculation will be determined in accordance with Appendix C of this Agreement.

14.2.5 Compliance with Availability Measure Target. The CAISO and the Participating TO may track the availability measure on a more frequent basis (e.g., quarterly, monthly), but the annual calculation shall be the sole basis for determining the Participating TO's compliance with its availability measure target.

14.2.6 Public Record. The Participating TO's annual availability measure calculation with its summary data shall be made available to the public.

14.3. Revisions.

The CAISO and Participating TOs shall periodically review Appendix C, through the Transmission Maintenance Coordination Committee process, and in accordance with the provisions of Appendix C and this Agreement shall modify Appendix C as necessary.

14.4. Incentives and Penalties.

The CAISO may, subject to regulatory approval, and as set forth in Appendix C, develop programs which reward or impose sanctions on Participating TOs by reference to their availability measure and the extent to which the availability performance imposes demonstrable costs or results in demonstrable benefits to Market Participants.

15. DISPUTE RESOLUTION

In the event any dispute regarding the terms and conditions of this Agreement is not settled, the Parties shall follow the CAISO ADR Procedures set forth in Section 13

of the CAISO Tariff. The specific references in this Agreement to alternative dispute resolution procedures shall not be interpreted to limit the Parties' rights and obligations to invoke dispute resolution procedures pursuant to this Section 15.

16. BILLING AND PAYMENT

16.1 Application of CAISO Tariff

The CAISO and Participating TOs shall comply with the billing and payment provisions set forth in Section 11 of the CAISO Tariff.

16.2 Refund Obligation

Each Participating TO, whether or not it is subject to the rate jurisdiction of the FERC under Section 205 and Section 206 of the Federal Power Act, shall make all refunds, adjustments to its Transmission Revenue Requirement, and adjustments to its TO Tariff and do all other things required of a Participating TO to implement any FERC order related to the CAISO Tariff, including any FERC order that requires the CAISO to make payment adjustments or pay refunds to, or receive prior period overpayments from, any Participating TO. All such refunds and adjustments shall be made, and all other actions taken, in accordance with the CAISO Tariff, unless the applicable FERC order requires otherwise. If, following the conditional acceptance or acceptance subject to refund of a Participating TO's Transmission Revenue Requirement, FERC issues a final order reducing that filed Transmission Revenue Requirement and directs the CAISO to make refunds of amounts collected in excess of the Transmission Revenue Requirement approved in the final order, the CAISO may invoice settlement adjustment(s) to the Participating TO in the amounts to be refunded pursuant to the final

order.

17. RECORDS AND INFORMATION SHARING

17.1. Records Relevant to Operation of CAISO Controlled Grid.

The CAISO shall keep such records as may be necessary for the efficient operation of the CAISO Controlled Grid and shall make appropriate records available to a Participating TO, upon request. The CAISO shall maintain for not less than five (5) years: (1) a record of its operating orders and (2) a record of the contents of, and changes to, the CAISO Register.

17.2. Participating TO Records and Information Sharing.

17.2.1 Existing Maintenance Standards. Each Participating TO shall provide to the CAISO, as set forth in Appendix C hereto: (1) the Participating TO's standards for inspection, maintenance, repair, and replacement of its facilities under the CAISO's Operational Control; and (2) information, notices, or reports regarding the Participating TO's compliance with the inspection, maintenance, repair, and replacement standards set forth in Appendix C hereto.

17.2.2 Other Records. Each Participating TO shall provide to the CAISO and maintain current data, records, and drawings describing the physical and electrical properties of the facilities under the CAISO's Operational Control, which records shall be shared with the CAISO under reasonable guidelines and procedures to be specified by the CAISO.

17.2.3 Required Reports. Pursuant to this Agreement and the provisions of the CAISO Tariff, each Participating TO shall provide to the CAISO timely

information, notices, or reports regarding matters of mutual concern, including:

- i. System Emergencies, Forced Outages, and other incidents affecting the CAISO Controlled Grid;
- ii. Maintenance Outage requests, including yearly forecasts required by Section 9.3.6 of the CAISO Tariff; and
- iii. System planning studies, including studies prepared in connection with interconnections to the CAISO Controlled Grid or any transmission facility enhancement or expansion affecting the CAISO Controlled Grid.

17.2.4 Other Reports. The CAISO may, in accordance with the provisions of this Agreement and Appendices hereto, upon reasonable notice to the Participating TO, request that the Participating TO provide the CAISO with such information or reports as are necessary for the operation of the CAISO Controlled Grid. The Participating TO shall make all such information or reports available to the CAISO in the manner and time prescribed by this Agreement or Appendices hereto or, if no specific requirements are so prescribed, within a reasonable time and in a form to be specified by the CAISO.

17.2.5 Other Market Participant Information. At the request of the CAISO, a Participating TO shall provide the CAISO with non-confidential information obtained by the Participating TO from other Market Participants pursuant to contracts between the Participating TO and such other Market Participants. Such requests shall be limited to information that is reasonably necessary for the operation of the CAISO Controlled Grid.

17.3. CAISO System Studies and Operating Procedures.

17.3.1 System Studies and Grid Stability Analyses. The CAISO, in coordination with Participating TOs, shall perform system operating studies or grid stability analyses to evaluate forecasted changes in grid conditions that could affect its ability to ensure compliance with the Applicable Reliability Criteria. The results and reports from such studies shall be exchanged between the CAISO and the Participating TOs. Study results and conclusions shall generally be assessed annually, and shall be updated as necessary, based on changing grid and local area conditions.

17.3.2 Grid Conditions Affecting Regulations, Permits and Licenses. The CAISO shall promulgate and maintain Operating Procedures to ensure that impaired or potentially degraded grid conditions are assessed and immediately communicated to the Participating TOs for operability determinations required by applicable regulations, permits, or licenses, such as NRC operating licenses for nuclear generating units.

17.4. Significant Incident.

17.4.1 Risk of Significant Incident. Any Party shall timely notify all other Parties if it becomes aware of the risk of significant incident, including extreme temperatures, storms, floods, fires, earthquakes, earth slides, sabotage, civil unrest, equipment outage limitations, etc., that affect the CAISO Controlled Grid. The Parties shall provide information that the reporting Party reasonably deems appropriate and necessary for the other Parties to prepare for the occurrence, in accordance with Good Utility Practice.

17.4.2 Occurrence of Significant Incident. Any Party shall timely

notify all other Parties if it becomes aware that a significant incident affecting the CAISO Controlled Grid has occurred. Subsequent to notification, each Party shall make available to the CAISO all relevant data related to the occurrence of the significant incident. Such data shall be sufficient to accommodate any reporting or analysis necessary for the Parties to meet their obligations under this Agreement.

17.5. Review of Information and Record-Related Policies.

The CAISO shall periodically review the requirements of this Section 17 and shall, consistent with reliability and regulatory needs, other provisions of this Agreement, and Appendices hereto, seek to standardize reasonable record keeping, reporting, and information sharing requirements.

18. GRANTING RIGHTS-OF-ACCESS TO FACILITIES

18.1. Equipment Installation.

In order to meet its obligations under this Agreement, a Party that owns, rents, or leases equipment (the equipment owner) may require installation of such equipment on property owned by another Party (the property owner), provided that the property is being used for an electric utility purpose and that the property owner shall not be required to do so if it would thereby be prevented from performing its own obligations or exercising its rights under this Agreement.

18.1.1 **Free Access.** The property owner shall grant to the equipment owner free of charge reasonable installation rights and rights of access to accommodate equipment inspection, repair, upgrading, or removal for the purposes of this Agreement, subject to the property owner's reasonable safety, operational, and future expansion needs.

18.1.2 **Notice.** The equipment owner (whether CAISO or Participating TO) shall provide reasonable notice to the property owner when requesting access for site assessment, coordinating equipment installation, or other relevant purposes.

18.1.3 **Removal of Installed Equipment.** Following reasonable notice, the equipment owner shall be required, at its own expense, to remove or relocate equipment, at the request of the property owner, provided that the equipment owner shall not be required to do so if it would thereby be prevented from performing its obligations or exercising its rights under this Agreement.

18.1.4 **Costs.** The equipment owner shall repair at its own expense any property damage it causes in exercising its rights and shall reimburse the property owner for any other costs that it is required to incur to accommodate the equipment owner's exercise of its rights under this Section 18.1.

18.2. Rights to Assets.

The Parties shall not interfere with each other's assets, without prior agreement.

18.3. Inspection of Facilities.

In order to meet their respective obligations under this Agreement, any Party may view or inspect facilities owned by another Party. Provided that reasonable notice is given, a Party shall not unreasonably deny access to relevant facilities for viewing or inspection by the requesting Party.

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20. TRAINING

20.1. Staffing and Training to Meet Obligations.

Each Party shall make its own arrangements for the engagement of all staff and labor necessary to perform its obligations hereunder and for their payment. Each Party shall employ (or cause to be employed) only persons who are appropriately qualified, skilled, and experienced in their respective trades or occupations. CAISO employees and contractors shall abide by the CAISO Code of Conduct contained in the CAISO Bylaws and approved by FERC.

20.2. Technical Training.

The CAISO and the Participating TOs shall respond to reasonable requests for support and provide relevant technical training to each other's employees to support the safe, reliable, and efficient operation of the CAISO Controlled Grid and to comply with any NERC or WECC operator certification or training requirements. Examples of such technical training include, but are not limited to: (1) the theory or operation of new or modified equipment (e.g., control systems, Remedial Action Schemes, protective relays); (2) computer and applicator programs; and (3) CAISO (or Participating TO) requirements. The Parties shall enter into agreements regarding the timing, term, locations, and cost allocation for the training.

21. OTHER SUPPORT SYSTEMS REQUIREMENTS

21.1. Related Systems.

The Parties shall each own, maintain, and operate equipment, other than those facilities described in the CAISO Register, which is necessary to meet their

specific obligations under this Agreement.

21.2. Lease or Rental of Equipment by the CAISO.

Under certain circumstances, it may be prudent for the CAISO to lease or rent equipment owned by a Participating TO, (e.g., EMS/SCADA, metering, telemetry, and communications systems), instead of installing its own equipment. In such case, the CAISO and the Participating TO shall mutually determine whether the CAISO shall lease or rent the Participating TO's equipment. The CAISO and the Participating TO shall enter into a written agreement specifying all the terms and conditions governing the lease or rental, including its term, equipment specifications, maintenance, availability, liability, interference mitigation, and payment terms.

22. LIABILITY

22.1. Liability for Damages.

Except as provided for in Section 13.3.14 of the CAISO Tariff and subject to Section 22.4, no Party to this Agreement shall be liable to any other Party for any losses, damages, claims, liability, costs, or expenses (including legal expenses) arising from the performance or non-performance of its obligations under this Agreement except to the extent that its grossly negligent performance of this Agreement (including intentional breach) results directly in physical damage to property owned, operated by, or under the operational control of any of the other Parties or in the death or injury of any person.

22.2. Exclusion of Certain Types of Loss.

No Party shall be liable to any other party under any circumstances whatsoever for any consequential or indirect financial loss (including but not limited to

loss of profit, loss of earnings or revenue, loss of use, loss of contract, or loss of goodwill) resulting from physical damage to property for which a Party may be liable under Section 22.1.

22.3. CAISO's Insurance.

The CAISO shall maintain insurance policies covering part or all of its liability under this Agreement with such insurance companies and containing such policy limits and deductible amounts as shall be determined by the CAISO Governing Board from time to time. The CAISO shall provide all Participating TOs with details of all insurance policies maintained by it pursuant to this Section 22 and shall have them named as additional insureds to the extent of their insurable interest.

22.4. Participating TOs Indemnity.

Each Participating TO shall indemnify the CAISO and hold it harmless against all losses, damages, claims, liability, costs, or expenses (including legal expenses) arising from third party claims due to any act or omission of that Participating TO except to the extent that they result from intentional wrongdoing or gross negligence on the part of the CAISO or of its officers, directors, or employees. The CAISO shall give written notice of any third party claims against which it is entitled to be indemnified under this Section to the Participating TOs concerned promptly after becoming aware of them. The Participating TOs who have acknowledged their obligation to provide a full indemnity shall be entitled to control any litigation in relation to such third party claims (including settlement and other negotiations) and the CAISO shall, subject to its right to be indemnified against any resulting costs, cooperate fully with the Participating TOs in defense of such claims.

23. UNCONTROLLABLE FORCES

23.1. Occurrences of Uncontrollable Forces.

No Party will be considered in default as to any obligation under this Agreement if prevented from fulfilling the obligation due to the occurrence of an Uncontrollable Force.

23.2. Obligations in the Event of an Uncontrollable Force.

In the event of the occurrence of an Uncontrollable Force, which prevents a Party from performing any of its obligations under this Agreement, such Party shall:

(1) immediately notify the other Parties of such Uncontrollable Force with such notice to be confirmed in writing as soon as reasonably practicable; (2) not be entitled to suspend performance of its obligations under this Agreement to any greater extent or for any longer duration than is required by the Uncontrollable Force; (3) use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligations hereunder; (4) keep the other Parties apprised of such efforts on a continual basis; and (5) provide written notice of the resumption of performance hereunder. Notwithstanding any of the foregoing, the settlement of any strike, lockout, or labor dispute constituting an Uncontrollable Force shall be within the sole discretion of the Party to this Agreement involved in such strike, lockout, or labor dispute and the requirement that a Party must use its best efforts to remedy the cause of the Uncontrollable Force and/or mitigate its effects and resume full performance hereunder shall not apply to strikes, lockouts, or labor disputes.

24. ASSIGNMENTS AND CONVEYANCES

No Party may assign its rights or transfer its obligations under this Agreement except, in the case of a Participating TO, pursuant to Section 4.4.1.

25. CAISO ENFORCEMENT

In addition to its other rights and remedies under this Agreement, the CAISO may if it sees fit initiate regulatory proceedings seeking the imposition of sanctions against any Participating TO who commits a material breach of its obligations under this Agreement.

26. MISCELLANEOUS

26.1. Notices.

Any notice, demand, or request in accordance with this Agreement, unless otherwise provided in this Agreement, shall be in writing and shall be deemed properly served, given, or made: (1) upon delivery if delivered in person; (2) five (5) days after deposit in the mail, if sent by first class United States mail, postage prepaid; (3) upon receipt of confirmation by return electronic facsimile if sent by facsimile; (4) upon receipt of confirmation by return e-mail if sent by e-mail, or (5) upon delivery if delivered by prepaid commercial courier service. Each Party shall provide to the CAISO a designation of the persons specified to receive notice on its behalf pursuant to this Agreement, and the CAISO shall post a list of these contacts for notices on the CAISO Website. Any Party may at any time, by notice to the CAISO, change the designation or address of the person specified to receive notice on its behalf, and the CAISO shall

make this change in the list of contacts for notices posted on the CAISO Website. Any notice of a routine character in connection with service under this Agreement or in connection with the operation of facilities shall be given in such a manner as the Parties may determine from time to time, unless otherwise provided in this Agreement.

26.2. Non-Waiver.

Any waiver at any time by any Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

26.3. Confidentiality.

26.3.1 **CAISO.** The CAISO shall maintain the confidentiality of all of the documents, materials, data, or information (“Data”) provided to it by any other Party that reflects or contains: (a) Data treated as confidential or commercially sensitive under the confidentiality provisions of Section 20 of the CAISO Tariff; (b) Critical Energy Infrastructure Information, as defined in Section 388.113(c)(1) of the FERC’s regulations; (c) technical information and materials that constitute valuable, confidential, and proprietary information, know-how, and trade secrets belonging to a Party, including, but not limited to, information relating to drawings, maps, reports, specifications, and records and/or software, data, computer models, and related documentation; or (d) Data that was previously public information but that was removed from public access in accordance with FERC’s policy statement issued on October 11,

2001 in Docket No. PL02-1-000 in response to the September 11, 2001 terrorist attacks. In order to be subject to the confidentiality protections of this Section 26.3, Data provided by a Party to the CAISO after January 1, 2005 which is to be accorded confidential treatment, as set forth above, shall be marked as "Confidential Data." Such a marking requirement, however, shall not be applicable to the Data provided by a Party to the CAISO prior to January 1, 2005 so long as the Data qualifies for confidential treatment hereunder. Notwithstanding the foregoing, the CAISO shall not keep confidential: (1) information that is explicitly subject to data exchange through the CAISO Website pursuant to Section 6 of the CAISO Tariff; (2) information that the CAISO or the Party providing the information is required to disclose pursuant to this Agreement, the CAISO Tariff, or applicable regulatory requirements (provided that the CAISO shall comply with any applicable limits on such disclosure); or (3) the information becomes available to the public on a non-confidential basis (other than as a result of the CAISO's breach of this Agreement).

26.3.2 Other Parties. No Party shall have a right hereunder to receive from the CAISO or to review any documents, data, or other information of another Party to the extent such documents, data, or information are required to be kept confidential in accordance with Section 26.3.1 above, provided, however, that a Party may receive and review any composite documents, data, and other information that may be developed based upon such confidential documents, data, or information, if the composite document does not disclose any individual Party's confidential data or information.

26.3.3 Disclosure. Notwithstanding anything in this Section 26.3 to the contrary, if the CAISO is required by applicable laws or regulations, or in the course of

administrative or judicial proceedings, to disclose information that is otherwise required to be maintained in confidence pursuant to this Section 26.3, the CAISO may disclose such information; provided, however, that as soon as the CAISO learns of the disclosure requirement and prior to making such disclosure, the CAISO shall notify the affected Party or Parties of the requirement and the terms thereof. The affected Party or Parties may, at their sole discretion and own costs, direct any challenge to or defense against the disclosure requirement and the CAISO shall cooperate with such affected Party or Parties to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The CAISO shall cooperate with the affected Parties to obtain proprietary or confidential treatment of confidential information by the person to whom such information is disclosed prior to any such disclosure.

26.4. Third Party Beneficiaries.

The Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, covenant, obligation, or undertaking established hereunder.

26.5. Relationship of the Parties.

The covenants, obligations, rights, and liabilities of the Parties under this Agreement are intended to be several and not joint or collective, and nothing contained herein shall ever be construed to create an association, joint venture, trust, or partnership, or to impose a trust or partnership covenant, obligation, or liability on, or with regard to, any of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement. No Party or group of Parties shall be under the control of or shall be deemed to control any other Party or

Parties. No Party shall be the agent of or have the right or power to bind any other Party without its written consent, except as expressly provided for in this Agreement.

26.6. Titles.

The captions and headings in this Agreement are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Agreement.

26.7. Severability.

If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

26.8. Preservation of Obligations.

Upon termination of this Agreement, all unsatisfied obligations of each Party shall be preserved until satisfied.

26.9. Governing Law.

This Agreement shall be interpreted, governed by, and construed under

the laws of the State of California, without regard to the principles of conflict of laws thereof, or the laws of the United States, as applicable, as if executed and to be performed wholly within the State of California.

26.10. Construction of Agreement.

Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in a manner that most accurately reflects the purpose of this Agreement and the nature of the rights and obligations of the Parties with respect to the matter being construed.

26.11. Amendment.

This Agreement may be modified: (1) by mutual agreement of the Parties, subject to approval by FERC; (2) through the CAISO ADR Procedures set forth in Section 13 of the CAISO Tariff; or (3) upon issuance of an order by FERC.

26.12. Appendices Incorporated.

The several appendices to this Agreement, as may be revised from time to time, are attached to this Agreement and are incorporated by reference as if herein fully set forth.

26.13. Counterparts.

This Agreement may be executed in one or more counterparts, which may be executed at different times. Each counterpart, which shall include applicable individual Appendices A, B, C, D, and E, shall constitute an original, but all such counterparts together shall constitute one and the same instrument.

26.14 Consistency with Federal Laws and Regulations

26.14.1 **No Violation of Law.** Nothing in this Agreement shall compel

any Party to: (1) violate any federal statute or regulation; or (2) in the case of a federal agency, to exceed its statutory authority, as defined by any applicable federal statute, or regulation or order lawfully promulgated thereunder. No Party shall incur any liability by failing to comply with a provision of this Agreement that is inapplicable to it by reason of being inconsistent with any federal statute, or regulation or order lawfully promulgated thereunder; provided, however, that such Party shall use its best efforts to comply with this Agreement to the extent that applicable federal laws, and regulations and orders lawfully promulgated thereunder, permit it to do so.

If Western issues or revises any federal regulation or order with the intent or effect of limiting, impairing, or excusing any obligation of Western under this Agreement, then unless Western's action was expressly directed by Congress, any Party, by giving thirty days' advance written notice to the other Parties, may require Western to withdraw from this Agreement, notwithstanding any other notice period in Section 3.3.1. If such notice is given, the CAISO and Western promptly shall meet to develop arrangements needed to comply with Western's obligation under Section 3.3.3 concerning non-impairment of CAISO Operational Control responsibilities.

26.14.2 Federal Entity Indemnity. No provision of this Agreement shall require any Participating TO to give an indemnity to Western or for Western to give an indemnity to any Participating TO. If any provision of this Agreement requiring Western to give an indemnity to the CAISO or the CAISO to impose a sanction on Western is unenforceable against a federal entity, the affected Party shall submit to the Secretary of Energy or other appropriate Departmental Secretary a report of any circumstances that would, but for this provision, have rendered a federal entity liable to indemnify any

person or incur a sanction and may request the Secretary of Energy or other appropriate Departmental Secretary to take such steps as are necessary to give effect to any provisions of this Agreement that are not enforceable against the federal entity.

26.14.3 Recovery for Unenforceable Indemnity. To the extent that a Party suffers any loss as a result of being unable to enforce any indemnity as a result of such enforcement being in violation of Section 26.14.2, it shall be entitled to seek recovery of such loss through its TO Tariff or through the CAISO Tariff, as applicable.