



July 20, 2022

RECEIVED  
2022 JUL 20 PM 2:49  
IDAHO PUBLIC  
UTILITIES COMMISSION

1407 W. North Temple, Suite 330  
Salt Lake City, Utah 84116

**VIA ELECTRONIC DELIVERY**

Jan Noriyuki  
Commission Secretary  
Idaho Public Utilities Commission  
1131 W. Chinden Blvd  
Building 8 Suite 201A  
Boise, ID 83714

**Re: CASE NO. PAC-E-21-14  
IN THE MATTER OF THE APPLICATION FOR APPROVAL OR REJECTION  
OF THE AMENDED POWER PURCHASE AGREEMENT BETWEEN  
PACIFICORP AND MINK CREEK HYDRO LLC.**

Dear Ms. Noriyuki:

Pursuant to Order No. 35223 please find a signed copy of the generation interconnection agreement between Mink Creek Hydro L.L.C. and PacifiCorp in the above referenced matter.

Informal inquiries may be directed to Ted Weston, Idaho Regulatory Manager at (801) 220-2963.

Very truly yours,

  
Joelle R. Steward  
SVP of Regulation and Customer & Community Solutions

Enclosures

**INTERCONNECTION AGREEMENT**  
**for a**  
**SMALL QUALIFYING FACILITY**  
**(QFSGIA)**  
**between**  
**PACIFICORP**  
**and**  
**Mink Creek Hydro LLC**

**(For Generating Facilities No Larger Than 20 MW Certified as  
Qualifying Facilities Under PURPA)**

**TABLE OF CONTENTS**

Article 1.	Scope and Limitations of Agreement
1.1	General
1.2	Responsibilities of the Parties
1.3	Parallel Operation Obligations
1.4	Metering
1.5	Reactive Power
1.6	Definitions
Article 2.	Inspection, Testing, Authorization, and Right of Access
2.1	Equipment Testing and Inspection
2.2	Authorization Required Prior to Parallel Operation
2.3	Right of Access
Article 3.	Effective Date, Term, Termination, and Disconnection
3.1	Effective Date
3.2	Term of Agreement
3.3	Termination
3.4	Temporary Disconnection
Article 4.	Cost Responsibility for Interconnection Facilities
	Distribution Upgrades
4.1	Interconnection Facilities
4.2	Distribution Upgrades
4.3	Network Upgrades
4.4	Affected Systems
4.5	Rights Under Other Agreements
Article 5.	Qualifying Facility Status
5.1	Certification of Qualifying Facility Status
5.2	Loss of Qualifying Facility Status
5.3	Small Qualifying Facility Wholesale Sales
Article 6.	Billing, Payment, Milestones, and Financial Security
6.1	Billing and Payment Procedures and Final Accounting

6.2	Milestones
6.3	Financial Security Arrangements
Article 7.	Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default
7.1	Assignment
7.2	Limitation of Liability
7.3	Indemnity
7.4	Consequential Damages
7.5	Force Majeure
7.6	Default
Article 8.	Insurance
Article 9.	Confidentiality
Article 10.	Disputes
Article 11.	Taxes
Article 12.	Miscellaneous
12.1	Governing Law, Regulatory Authority, and Rules
12.2	Amendment
12.3	No Third-Party Beneficiaries
12.4	Waiver
12.5	Entire Agreement
12.6	Multiple Counterparts
12.7	No Partnership
12.8	Severability
12.9	Security Arrangements
12.10	Environmental Releases
12.11	Subcontractors
12.12	Reservation of Rights
Article 13.	Notices
13.1	General
13.2	Billing and Payment
13.3	Alternative Forms of Notice
13.4	Designated Operating Representative
13.5	Changes to the Notice Information
Article 14.	Signatures
Attachment 1	- Glossary of Terms
Attachment 2	- Description and Costs of the Small Generating Facility, Interconnection Facilities, and Metering Equipment
Attachment 3	- One-line Diagram Depicting the Small Generating Facility, Interconnection Facilities, Metering Equipment, and Upgrades
Attachment 4	- Milestones
Attachment 5	- Additional Operating Requirements for the Transmission Provider's Transmission System and Affected Systems Needed to Support the Interconnection Customer's Needs

Attachment 6 - Transmission Provider's Description of its  
Upgrades and Best Estimate of Upgrade Costs

Attachment 7 - Scope of Work

Attachment 8 - Interconnection and Operating Requirements

This Interconnection Agreement ("Agreement") is made and entered into this 14th day of February, 2022, by PacifiCorp ("Transmission Provider"), and Mink Creek Hydro LLC ("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties."

**Transmission Provider Information**

Transmission Provider: PacifiCorp  
Attention: PacifiCorp Transmission Services  
Address: 825 N.E. Multnomah St., Suite 550  
City: Portland State: Oregon Zip: 97232  
Phone: 503-813-6077 Fax: 503-813-6893

**Interconnection Customer Information**

Interconnection Customer: Mink Creek Hydro, LLC  
Attention: Jake Fackrell  
Address: PO Box #1  
City: Preston State: ID Zip: 83263  
Phone: 949-677-5629  
Email: jakefackrell76@gmail.com

Interconnection Customer Application No: OTP176

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

**Article 1. Scope and Limitations of Agreement**

1.1 General

1.1.1 This Agreement shall be used for all Interconnection Requests regarding a Small Qualifying Facility unless the interconnection is otherwise governed by a state Net Metering Statute or other Applicable Law or Regulation.

1.1.2 This Agreement governs the terms and conditions under which the Interconnection Customer's Small Qualifying Facility will interconnect with, and operate in parallel with, the Transmission Provider's Transmission System and/or Distribution System.

1.1.3 This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power. The purchase or delivery of power and other services that

the Interconnection Customer may require will be covered under separate agreements, if any. The Interconnection Customer will be responsible for separately making all necessary arrangements (including scheduling) for delivery of electricity with the applicable Transmission Provider.

1.1.4 Nothing in this Agreement is intended to affect any other agreement between the Transmission Provider and the Interconnection Customer.

## 1.2 Responsibilities of the Parties

1.2.1 The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations, Operating Requirements, and Good Utility Practice.

1.2.2 The Interconnection Customer shall construct, interconnect, operate and maintain its Small Qualifying Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, and in accordance with this Agreement, and with Good Utility Practice.

1.2.3 The Transmission Provider shall construct, operate, and maintain its Transmission System, Distribution System and Interconnection Facilities in accordance with this Agreement, and with Good Utility Practice.

1.2.4 The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriter's Laboratory, and Operating Requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its Small Qualifying Facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the system or equipment of the Transmission Provider and any Affected Systems.

- 1.2.5 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the point of change of ownership. The Transmission Provider and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the Transmission Provider's Transmission System and/or Distribution System, personnel, and other persons from damage and injury. The allocation of responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be delineated in the Attachments to this Agreement.
- 1.2.6 The Transmission Provider shall coordinate with all Affected Systems to support the interconnection.
- 1.2.7 The Interconnection Customer shall ensure "frequency ride through" capability and "voltage ride through" capability of its Small Qualifying Facility. The Interconnection Customer shall enable these capabilities such that its Small Qualifying Facility shall not disconnect automatically or instantaneously from the system or equipment of the Transmission Provider and any Affected Systems for a defined under-frequency or over-frequency condition, or an under-voltage or over-voltage condition as tested pursuant to section 2.1 of this agreement. The defined conditions shall be in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other generating facilities in the Balancing Authority Area on a comparable basis. The Small Qualifying Facility's protective equipment settings shall comply with the Transmission Provider's automatic load-shed program. The Transmission Provider shall review the protective equipment settings to confirm compliance with the

automatic load-shed program. The term "ride through" as used herein shall mean the ability of a Small Qualifying Facility to stay connected to and synchronized with the system or equipment of the Transmission Provider and any Affected Systems during system disturbances within a range of conditions, in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other generating facilities in the Balancing Authority on a comparable basis. The term "frequency ride through" as used herein shall mean the ability of a Small Qualifying Facility to stay connected to and synchronized with the system or equipment of the Transmission Provider and any Affected Systems during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other generating facilities in the Balancing Authority Area on a comparable basis. The term "voltage ride through" as used herein shall mean the ability of a Small Qualifying Facility to stay connected to and synchronized with the system or equipment of the Transmission Provider and any Affected Systems during system disturbances within a range of under-voltage and over-voltage conditions, in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other generating facilities in the Balancing Authority Area on a comparable basis.

### 1.3 Parallel Operation Obligations

Once the Small Qualifying Facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the Small Qualifying Facility in the applicable control area, including, but not limited to: 1) the rules and procedures concerning the operation of generation set forth in any of the Transmission Provider's published Tariffs or by the applicable system operator; and 2) the Operating Requirements set forth in Attachment 5 of this Agreement.

### 1.4 Metering



The Interconnection Customer shall be responsible for the Transmission Provider's reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Attachments 2 and 3 of this Agreement. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

## 1.5 Reactive Power and Primary Frequency Response

### 1.5.1 Power Factor Design Criteria

#### 1.5.1.1 Synchronous Generation

The Interconnection Customer shall design its Small Qualifying Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless the Transmission Provider has established different requirements that apply to all similarly situated synchronous generators in the control area on a comparable basis.

#### 1.5.1.2 Non-Synchronous Generation

The Interconnection Customer shall design its Small Qualifying Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the Transmission Provider has established a different power factor range that applies to all similarly situated non-synchronous generators in the control area on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any

limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two. This requirement shall only apply to newly interconnecting non-synchronous generators that have not yet executed a Facilities Study Agreement as of the effective date of the Final Rule establishing this requirement (Order No. 827).

1.5.2 The Transmission Provider is required to pay the Interconnection Customer for reactive power that the Interconnection Customer provides or absorbs from the Small Qualifying Facility when the Transmission Provider requests the Interconnection Customer to operate its Small Qualifying Facility outside the range specified in article 1.8.1. In addition, if the Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay the Interconnection Customer.

1.5.3 Payments shall be in accordance with the Interconnection Customer's applicable rate schedule then in effect unless the provision of such service(s) is subject to a regional transmission organization or independent system operator FERC-approved rate schedule. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb reactive power under this Agreement, the Parties agree to expeditiously file such rate schedule and agree to support any request for waiver of the Commission's prior notice requirement in order to compensate the Interconnection Customer from the time service commenced.

1.5.4 Primary Frequency Response

Interconnection Customer shall ensure the primary frequency response capability of its Small Qualifying Facility by installing, maintaining, and operating a functioning governor or equivalent controls. The term "functioning

governor or equivalent controls" as used herein shall mean the required hardware and/or software that provides frequency responsive real power control with the ability to sense changes in system frequency and autonomously adjust the Small Qualifying Facility's real power output in accordance with the droop and deadband parameters and in the direction needed to correct frequency deviations. Interconnection Customer is required to install a governor or equivalent controls with the capability of operating: (1) with a maximum 5 percent droop and  $\pm 0.036$  Hz deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained response settings from an approved NERC Reliability Standard providing for equivalent or more stringent parameters. The droop characteristic shall be: (1) based on the nameplate capacity of the Small Qualifying Facility, and shall be linear in the range of frequencies between 59 to 61 Hz that are outside of the deadband parameter; or (2) based on an approved NERC Reliability Standard providing for an equivalent or more stringent parameter. The deadband parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the governor or equivalent controls is not expected to adjust the Small Qualifying Facility's real power output in response to frequency deviations. The deadband shall be implemented: (1) without a step to the droop curve, that is, once the frequency deviation exceeds the deadband parameter, the expected change in the Small Qualifying Facility's real power output in response to frequency deviations shall start from zero and then increase (for under-frequency deviations) or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the frequency deviation; or (2) in accordance with an approved NERC Reliability Standard providing for an equivalent or more stringent parameter. Interconnection Customer shall notify Transmission Provider that the primary frequency response capability of the Small Qualifying Facility has been tested and confirmed during commissioning. Once Interconnection Customer has synchronized the Small Qualifying Facility with the Transmission

System, Interconnection Customer shall operate the Small Qualifying Facility consistent with the provisions specified in Sections 1.8.4.1 and 1.8.4.2 of this Agreement. The primary frequency response requirements contained herein shall apply to both synchronous and non-synchronous Small Generating Facilities.

1.5.4.1 Governor or Equivalent Controls. Whenever the Small Qualifying Facility is operated in parallel with the Transmission System, Interconnection Customer shall operate the Small Qualifying Facility with its governor or equivalent controls in service and responsive to frequency. Interconnection Customer shall: (1) in coordination with Transmission Provider and/or the relevant balancing authority, set the deadband parameter to: (1) a maximum of  $\pm 0.036$  Hz and set the droop parameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settings from an approved NERC Reliability Standard that provides for equivalent or more stringent parameters. Interconnection Customer shall be required to provide the status and settings of the governor or equivalent controls to Transmission Provider and/or the relevant balancing authority upon request. If Interconnection Customer needs to operate the Small Qualifying Facility with its governor or equivalent controls not in service, Interconnection Customer shall immediately notify Transmission Provider and the relevant balancing authority, and provide both with the following information: (1) the operating status of the governor or equivalent controls (i.e., whether it is currently out of service or when it will be taken out of service); (2) the reasons for removing the governor or equivalent controls from service; and

(3) a reasonable estimate of when the governor or equivalent controls will be returned to service. Interconnection Customer shall make Reasonable Efforts to return its governor or equivalent controls into service as soon as practicable. Interconnection Customer shall make Reasonable Efforts to keep outages of the Small Qualifying Facility's governor or equivalent controls to a minimum whenever the Small Qualifying Facility is operated in parallel with the Transmission System.

1.5.4.2 Timely and Sustained Response. Interconnection Customer shall ensure that the Small Qualifying Facility's real power response to sustained frequency deviations outside of the deadband setting is automatically provided and shall begin immediately after frequency deviates outside of the deadband, and to the extent the Small Qualifying Facility has operating capability in the direction needed to correct the frequency deviation. Interconnection Customer shall not block or otherwise inhibit the ability of the governor or equivalent controls to respond and shall ensure that the response is not inhibited, except under certain operational constraints including, but not limited to, ambient temperature limitations, physical energy limitations, outages of mechanical equipment, or regulatory requirements. The Small Qualifying Facility shall sustain the real power response at least until system frequency returns to a value within the deadband setting of the governor or equivalent controls. A Commission-approved Reliability Standard with equivalent or more stringent requirements shall supersede the above requirements.

1.5.4.3 Exemptions.

Small Generating Facilities that are regulated by the United States Nuclear Regulatory Commission shall be exempt from Sections 1.8.4, 1.8.4.1, and 1.8.4.2 of this Agreement. Small Generating Facilities that are behind the meter generation that is sized-to-load (i.e., the thermal load and the generation are near-balanced in real-time operation and the generation is primarily controlled to maintain the unique thermal, chemical, or mechanical output necessary for the operating requirements of its host facility) shall be required to install primary frequency response capability in accordance with the droop and deadband capability requirements specified in Section 1.8.4, but shall be otherwise exempt from the operating requirements in Sections 1.8.4, 1.8.4.1, 1.8.4.2, and 1.8.4.4 of this Agreement.

1.5.4.4 Electric Storage Resources.

Interconnection Customer interconnecting an electric storage resource shall establish an operating range in Attachment 5 of its SGIA that specifies a minimum state of charge and a maximum state of charge between which the electric storage resource will be required to provide primary frequency response consistent with the conditions set forth in Sections 1.8.4, 1.8.4.1, 1.8.4.2 and 1.8.4.3 of this Agreement. Attachment 5 shall specify whether the operating range is static or dynamic, and shall consider: (1) the expected magnitude of frequency deviations in the interconnection; (2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection; (3) the expected incidence of frequency deviations outside of the deadband

parameter in the interconnection; (4) the physical capabilities of the electric storage resource; (5) operational limitations of the electric storage resource due to manufacturer specifications; and (6) any other relevant factors agreed to by Transmission Provider and Interconnection Customer, and in consultation with the relevant transmission owner or balancing authority as appropriate. If the operating range is dynamic, then Attachment 5 must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.

Interconnection Customer's electric storage resource is required to provide timely and sustained primary frequency response consistent with Section 1.8.4.2 of this Agreement when it is online and dispatched to inject electricity to the Transmission System and/or receive electricity from the Transmission System. This excludes circumstances when the electric storage resource is not dispatched to inject electricity to the Transmission System and/or dispatched to receive electricity from the Transmission System. If Interconnection Customer's electric storage resource is charging at the time of a frequency deviation outside of its deadband parameter, it is to increase (for over-frequency deviations) or decrease (for under-frequency deviations) the rate at which it is charging in accordance with its droop parameter. Interconnection Customer's electric storage resource is not required to change from charging to discharging, or vice versa, unless the response necessitated by the droop and deadband settings requires it to do so

and it is technically capable of making such a transition.

## 1.6 Definitions.

Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Attachment 1 or the body of this Agreement.

## **Article 2. Inspection, Testing, Authorization, and Right of Access**

### 2.1 Equipment Testing and Inspection

2.1.1 The Interconnection Customer shall test and inspect its Small Qualifying Facility and Interconnection Facilities prior to interconnection. The Interconnection Customer shall notify the Transmission Provider of such activities no fewer than five Business Days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and inspection shall occur on a Business Day. The Transmission Provider may send qualified personnel to the Small Qualifying Facility site to inspect the interconnection and observe the testing. If requested by the Transmission Provider, the Interconnection Customer shall provide the Transmission Provider a written test report when such testing and inspection is completed.

2.1.2 The Transmission Provider shall provide the Interconnection Customer written acknowledgment that it has received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the Transmission Provider of the safety, durability, suitability, or reliability of the Small Qualifying Facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the Small Qualifying Facility.

### 2.2 Authorization Required Prior to Parallel Operation



2.2.1 The Transmission Provider shall use Reasonable Efforts to list applicable parallel operation requirements in Attachment 5 of this Agreement. Additionally, the Transmission Provider shall notify the Interconnection Customer of any changes to these requirements as soon as they are known. The Transmission Provider shall make Reasonable Efforts to cooperate with the Interconnection Customer in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the Small Qualifying Facility's in-service date.

2.2.2 The Interconnection Customer shall not operate its Small Qualifying Facility in parallel with the Transmission Provider's Transmission System and/or Distribution System without prior written authorization of the Transmission Provider. The Transmission Provider will provide such authorization once the Transmission Provider receives notification that the Interconnection Customer has complied with all applicable parallel operation requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

### 2.3 Right of Access

2.3.1 Upon reasonable notice, the Transmission Provider may send a qualified person to the premises of the Interconnection Customer at or immediately before the time the Small Qualifying Facility first produces energy to inspect the interconnection, and observe the commissioning of the Small Qualifying Facility (including any required testing), startup, and operation for a period of up to three Business Days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the Transmission Provider at least five Business Days prior to conducting any on-site verification testing of the Small Qualifying Facility.

2.3.2 Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous

- condition, the Transmission Provider shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.
- 2.3.3 Each Party shall be responsible for its own costs associated with following this article.

### **Article 3. Effective Date, Term, Termination, and Disconnection**

#### 3.1 Effective Date

This QFSGIA shall become effective upon execution by the Parties subject to acceptance by state commission (if applicable).

#### 3.2 Term of Agreement

This Agreement shall become effective on the Effective Date and shall remain in effect for a period of ten years from the Effective Date or such other longer period as the Interconnection Customer may request and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with article 3.3 of this Agreement.

#### 3.3 Termination

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination.

- 3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the Transmission Provider 20 Business Days written notice.
- 3.3.2 Either Party may terminate this Agreement after Default pursuant to article 7.6.
- 3.3.3 Upon termination of this Agreement, the Small Qualifying Facility will be disconnected from the Transmission Provider's Transmission System and/or Distribution System at the Interconnection Customer's expense. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating party's Default

of this Agreement or such non-terminating party otherwise is responsible for these costs under this Agreement.

3.3.4 The termination of this Agreement shall not relieve either party of its liabilities and obligations, owed or continuing at the time of the termination.

3.3.5 The provisions of this article shall survive termination or expiration of this Agreement.

#### 3.4 Temporary Disconnection

Temporary disconnection shall continue only for so long as reasonably necessary under Good Utility Practice.

##### 3.4.1 Emergency Conditions.

"Emergency Condition" shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the Transmission Provider, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to the Transmission System and/or Distribution System, the Transmission Provider's Interconnection Facilities or the Transmission System and/or Distribution Systems of others to which the Transmission System and/or Distribution System is directly connected; or (3) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Small Qualifying Facility or the Interconnection Customer's Interconnection Facilities. Under Emergency Conditions, the Transmission Provider may immediately suspend interconnection service and temporarily disconnect the Small Qualifying Facility. The Transmission Provider shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer's operation of the Small

Qualifying Facility. The Interconnection Customer shall notify the Transmission Provider promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Transmission Provider's Transmission System and/or Distribution System or any Affected Systems. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

3.4.2 Routine Maintenance, Construction, and Repair

The Transmission Provider may interrupt interconnection service or curtail the output of the Small Qualifying Facility and temporarily disconnect the Small Qualifying Facility from the Transmission Provider's Transmission System and/or Distribution System when necessary for routine maintenance, construction, and repairs on the Transmission Provider's Transmission System and/or Distribution System. The Transmission Provider shall provide the Interconnection Customer with two Business Days notice prior to such interruption. The Transmission Provider shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

3.4.3 Forced Outages

During any forced outage, the Transmission Provider may suspend interconnection service to effect immediate repairs on the Transmission Provider's Transmission System and/or Distribution System. The Transmission Provider shall use Reasonable Efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the Transmission Provider shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

#### 3.4.4 Adverse Operating Effects

The Transmission Provider shall notify the Interconnection Customer as soon as practicable if, based on Good Utility Practice, operation of the Small Qualifying Facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Small Qualifying Facility could cause damage to the Transmission Provider's Transmission System and/or Distribution System or Affected Systems. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the Transmission Provider may disconnect the Small Qualifying Facility. The Transmission Provider shall provide the Interconnection Customer with five Business Day notice of such disconnection, unless the provisions of article 3.4.1 apply.

#### 3.4.5 Modification of the Small Qualifying Facility

The Interconnection Customer must receive written authorization from the Transmission Provider before making any change to the Small Qualifying Facility that may have a material impact on the safety or reliability of the Transmission System and/or Distribution System. Such authorization shall not be unreasonably withheld. Modifications shall be done in accordance with Good Utility Practice. If the Interconnection Customer makes such modification without the Transmission Provider's prior written authorization, the latter shall have the right to temporarily disconnect the Small Qualifying Facility.

#### 3.4.6 Reconnection

The Parties shall cooperate with each other to restore the Small Qualifying Facility, Interconnection Facilities, and the Transmission Provider's Transmission System and/or Distribution System to their normal operating

state as soon as reasonably practicable following a temporary disconnection.

**Article 4. Cost Responsibility for Interconnection Facilities, Distribution Upgrades and Network Upgrades**

4.1 Interconnection Facilities

4.1.1 The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Attachment 2 of this Agreement. The Transmission Provider shall provide a best estimate cost, including overheads, for the purchase and construction of its Interconnection Facilities and provide a detailed itemization of such costs. Costs associated with Interconnection Facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, and the Transmission Provider.

4.1.2 The Interconnection Customer shall be responsible for all reasonable expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its own Interconnection Facilities, and (2) operating, maintaining, repairing, and replacing the Transmission Provider's Interconnection Facilities.

4.2 Distribution Upgrades

The Transmission Provider shall design, procure, construct, install, and own the Distribution Upgrades described in Attachment 6 of this Agreement. If the Transmission Provider and the Interconnection Customer agree, the Interconnection Customer may construct Distribution Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer.

4.3 Network Upgrades

The Transmission Provider shall design, procure, construct, install, and own the Network Upgrades described in Attachment 6 of this Agreement. If the Transmission Provider and the Interconnection Customer agree, the Interconnection Customer may

construct Network Upgrades that are located on land owned by the Interconnection Customer. Unless Transmission Provider elects to fund the capital for the Network Upgrades, the costs shall be directly assigned to the Interconnection Customer.

#### 4.4 Affected Systems

Unless the Transmission Provider provides, under this Agreement, the Interconnection Customer and any Affected System operator(s) shall enter into a separate agreement that provides for such the construction of any Affected System upgrades. The agreement shall specify the terms governing payments to be made by the Interconnection Customer to the Affected System operator.

#### 4.5 Rights Under Other Agreements

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, that the Interconnection Customer shall be entitled to, now or in the future, under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Distribution Upgrades and/or Network Upgrades constructed or installed under this Agreement.

### **Article 5. Qualifying Facility Status**

#### 5.1 Certification of Qualifying Facility Status

Prior to interconnection and parallel operation under this Agreement, Interconnection Customer shall provide evidence of certification of the Small Qualifying Facility as provided by 18 C.F.R. §§ 292.201-292.211.

#### 5.2 Loss of Qualifying Facility Status

If, at any time during the term of this Agreement, Interconnection Customer's Small Qualifying Facility loses its status as a Qualifying Facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3, and/or 18 C.F.R. §§ 292.201-292.211, the Interconnection Customer shall be deemed to be in Default and the Transmission Provider may terminate this Agreement pursuant to Article 7.6.

### 5.3 Small Qualifying Facility Wholesale Sales

If, at any time during the term of this Agreement, Interconnection Customer sells any portion of the output from the Small Qualifying Facility at wholesale, the Interconnection Customer shall be deemed to be in Default and the Transmission Provider may terminate this Agreement pursuant to Article 7.6.

## **Article 6. Billing, Payment, Milestones, and Financial Security**

### 6.1 Billing and Payment Procedures and Final Accounting

6.1.1 The Transmission Provider shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of Interconnection Facilities and Upgrades contemplated by this Agreement on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within 30 calendar days of receipt, or as otherwise agreed to by the Parties.

6.1.2 Within three months of completing the construction and installation of the Transmission Provider's Interconnection Facilities and/or Upgrades described in the Attachments to this Agreement, the Transmission Provider shall provide the Interconnection Customer with a final accounting report of any difference between (1) the Interconnection Customer's cost responsibility for the actual cost of such facilities or Upgrades, and (2) the Interconnection Customer's previous aggregate payments to the Transmission Provider for such facilities or Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Transmission Provider shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Transmission Provider within 30 calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the Transmission Provider shall refund to the Interconnection Customer an amount equal to the difference within 30 calendar days of the final accounting report.



## 6.2 Milestones

The Parties shall agree on milestones for which each Party is responsible and list them in Attachment 4 of this Agreement. A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure Event, it shall immediately notify the other Party of the reason(s) for not meeting the milestone and (1) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (2) requesting appropriate amendments to Attachment 4. The Party affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless it will suffer significant uncompensated economic or operational harm from the delay, (2) attainment of the same milestone has previously been delayed, or (3) it has reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

## 6.3 Financial Security Arrangements

At least 20 Business Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Transmission Provider's Interconnection Facilities and Upgrades, the Interconnection Customer shall provide the Transmission Provider, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Transmission Provider and is consistent with the Uniform Commercial Code of the jurisdiction where the Point of Interconnection is located. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Transmission Provider's Interconnection Facilities and Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Transmission Provider under this Agreement during its term. In addition:

- 6.3.1 The guarantee must be made by an entity that meets the creditworthiness requirements of the Transmission Provider, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.

- 6.3.2 The letter of credit or surety bond must be issued by a financial institution or insurer reasonably acceptable to the Transmission Provider and must specify a reasonable expiration date.

**Article 7. Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default**

7.1 Assignment

This Agreement may be assigned by either Party upon 15 Business Days prior written notice and opportunity to object by the other Party; provided that:

- 7.1.1 Transmission Provider may at any time assign its rights and delegate its obligations under this Agreement, in whole or in part, including, without limitation, transferring its rights and obligations under this Agreement to any: (i) affiliate; (ii) successor in interest, or (iii) corporation or any other business entity in conjunction with a merger, consolidation or other business reorganization to which PacifiCorp is a party. Affiliate includes any entity in which Berkshire Hathaway Inc. owns more than a 5% interest, over which Berkshire Hathaway Energy exercises management control, or which is listed on an exhibit to this Agreement.
- 7.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the Transmission Provider, for collateral security purposes to aid in providing financing for the Small Qualifying Facility, provided that the Interconnection Customer will promptly notify the Transmission Provider of any such assignment.
- 7.1.3 Any attempted assignment that violates this article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same financial, credit, and insurance obligations as the Interconnection Customer. Where required, consent

to assignment will not be unreasonably withheld, conditioned or delayed.

## 7.2 Limitation of Liability

Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as authorized by this Agreement.

## 7.3 Indemnity

7.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in article 7.2.

7.3.2 The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

7.3.3 If an indemnified person is entitled to indemnification under this article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this article, to assume the defense of such claim, such indemnified person may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

- 7.3.4 If an indemnifying party is obligated to indemnify and hold any indemnified person harmless under this article, the amount owing to the indemnified person shall be the amount of such indemnified person's actual loss, net of any insurance or other recovery.
- 7.3.5 Promptly after receipt by an indemnified person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this article may apply, the indemnified person shall notify the indemnifying party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying party.

#### 7.4 Consequential Damages

Other than as expressly provided for in this Agreement, neither Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

#### 7.5 Force Majeure

- 7.5.1 As used in this article, a Force Majeure Event shall mean "any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing."

7.5.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Party, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

## 7.6 Default

7.6.1 No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in article 7.6.2, the defaulting Party shall have 60 calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

7.6.2 If a Default is not cured as provided in this article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

## **Article 8. Insurance**

8.1 The Interconnection Customer shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection undertaken pursuant to this Agreement. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. The Interconnection Customer shall obtain additional insurance only if necessary as a function of owning and operating a generating facility. Such insurance shall be obtained from an insurance provider authorized to do business in the State where the interconnection is located. Certification that such insurance is in effect shall be provided upon request of the Transmission Provider, except that the Interconnection Customer shall show proof of insurance to the Transmission Provider no later than ten Business Days prior to the anticipated commercial operation date. An Interconnection Customer of sufficient credit-worthiness may propose to self-insure for such liabilities, and such a proposal shall not be unreasonably rejected.

8.2 The Transmission Provider agrees to maintain general liability insurance or self-insurance consistent with the Transmission Provider's commercial practice. Such insurance or self-insurance shall not exclude coverage for the Transmission Provider's liabilities undertaken pursuant to this Agreement.

8.3 The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages

that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

## **Article 9. Confidentiality**

9.1 Confidential Information shall mean any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed Confidential Information regardless of whether it is clearly marked or otherwise designated as such.

9.2 Confidential Information does not include information previously in the public domain, required to be publicly submitted or divulged by Governmental Authorities (after notice to the other Party and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce this Agreement. Each Party receiving Confidential Information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements.

9.2.1 Each Party shall employ at least the same standard of care to protect Confidential Information obtained from the other Party as it employs to protect its own Confidential Information.

9.2.2 Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of Confidential Information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.

9.3 Notwithstanding anything in this article to the contrary, if a state public utility commission or state public service commission ("State Commission"), during the course of an investigation or other proceeding, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to such State Commission, within the

time provided for in the request for information. In providing the information to a State Commission, the Party may request that the information be treated as confidential and non-public by the State Commission and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Party to this Agreement prior to the release of the Confidential Information to a State Commission. The Party shall notify the other Party to this Agreement when it is notified by a Commission that a request to release Confidential Information has been received by such body, at which time either of the Parties may respond before such information would be made public.

#### **Article 10. Disputes**

10.1 The Parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this article.

10.2 In the event of a dispute, either Party shall provide the other Party with a written Notice of Dispute. Such Notice shall describe in detail the nature of the dispute.

10.3 Each Party agrees to conduct all negotiations in good faith and will be responsible for one-half of any costs paid to neutral third-parties.

10.4 If the attempted dispute resolution fails, then either Party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of this Agreement.

#### **Article 11. Taxes**

11.1 The Parties agree to follow all applicable tax laws and regulations, consistent with Applicable Laws and Regulations, and Internal Revenue Service requirements.

11.2 Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Agreement is intended to adversely affect the Transmission Provider's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

#### **Article 12. Miscellaneous**

12.1 Governing Law, Regulatory Authority, and Rules



The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of Idaho, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

#### 12.2 Amendment

The Parties may amend this Agreement by a written instrument duly executed by both Parties, or under article 12.12 of this Agreement.

#### 12.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

#### 12.4 Waiver

12.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

12.4.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Transmission Provider. Any waiver of this Agreement shall, if requested, be provided in writing.

#### 12.5 Entire Agreement

This Agreement, including all Attachments, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

#### 12.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

#### 12.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

#### 12.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

#### 12.9 Security Arrangements

Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. Transmission Provider and Interconnection Customer shall comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice

recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

#### 12.10 Environmental Releases

Each Party shall notify the other Party, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Small Qualifying Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than 24 hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

#### 12.11 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

- 12.11.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Transmission Provider be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

12.11.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

12.12 Reservation of Rights

The Transmission Provider shall have the right to make a unilateral filing with any regulatory agency having jurisdiction over this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule, regulation or statute, and the Interconnection Customer shall have the right to make a unilateral filing with such regulatory agency to modify this Agreement; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties, except to the extent that the Parties otherwise agree as provided herein.

**Article 13. Notices**

13.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national carrier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Interconnection Customer: Mink Creek Hydro, LLC

Attention: Jake Fackrell

Address: PO Box #1

City: Preston State: ID Zip: 83263

Phone: 949-677-5629

Email: jakefackrell76@gmail.com

If to the Transmission Provider:

Transmission Provider: PacifiCorp

Attention: PacifiCorp Transmission

Address: 825 N.E. Multnomah St., Suite 550

City: Portland State: Oregon Zip: 97232

Phone: 503-813-6077 Fax: 503-813-6893

### 13.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

Interconnection Customer: Mink Creek Hydro, LLC  
Attention: Jake Fackrell  
Address: PO Box #1  
City: Preston State: ID Zip: 83263  
Phone: 949-677-5629  
Email: jakefackrell76@gmail.com

Transmission Provider: PacifiCorp

US Mail Deliveries: PacifiCorp Transmission  
Attn: Central Cashiers Office  
PO Box 2757  
Portland, OR 97208-2757

Other Deliveries: Central Cashier Office  
Attn: PacifiCorp Transmission Services  
825 NE Multnomah St., Suite 550  
Portland, OR 97232-0001

Phone Number: 503-813-6774

### 13.3 Alternative Forms of Notice

Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: Mink Creek Hydro, LLC  
Attention: Jake Fackrell  
Address: PO Box #1  
City: Preston State: ID Zip: 83263  
Phone: 949-677-5629  
Email: jakefackrell76@gmail.com

If to the Transmission Provider:

Director, Generation Interconnection	503-813-6496
Manager, Transmission Scheduling	503-813-6958

Manager, Contract Administration  
Transmission Business Facsimile

503-813-5476  
503-813-6893

OASIS Address:

<http://www.oasis.pacificorp.com/oasis/ppw/main.htmlx>

#### 13.4 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Interconnection Customer: Mink Creek Hydro, LLC  
Attention: Jake Fackrell  
Address: PO Box #1  
City: Preston State: ID Zip: 83263  
Phone: 949-677-5629  
Email: jakefackrell76@gmail.com

Transmission Provider's Operating Representative:

Transmission Provider: PacifiCorp  
Attention: Manager Grid Operations  
Address: 9951 S.E, Ankeny St.  
City: Portland State: Oregon Zip: 97216  
Phone: 503-251-5197 Fax: 503-251-5228

#### 13.5 Changes to the Notice Information

Either Party may change this information by giving five Business Days written notice prior to the effective date of the change.

**Article 14. Signatures**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

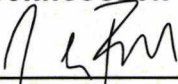
For the Transmission Provider

Name: **Rick Vail**  
Digitally signed by Rick Vail  
Date: 2022.02.14  
13:28:53 -08'00'

Title: Rick Vail  
VP, Transmission

Date: 02/14/2022

For the Interconnection Customer:

Name:   
**Mink Creek Manager**

Title: \_\_\_\_\_

Date: 02/10/2022

**Glossary of Terms**

**Affected System** - An electric system other than the Transmission Provider's Transmission system and/or Distribution System that may be affected by the proposed interconnection.

**Applicable Laws and Regulations** - All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Business Day** - Monday through Friday, excluding Federal Holidays.

**Default** - The failure of a breaching Party to cure its breach under the Qualifying Facility Small Generator Interconnection Agreement.

**Distribution System** - The Transmission Provider's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which Distribution Systems operate differ among areas.

**Distribution Upgrades** - The additions, modifications, and upgrades to the Transmission Provider's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Small Qualifying Facility and render the transmission service necessary to effect the Interconnection Customer's sale of electricity under PURPA. Distribution Upgrades do not include Interconnection Facilities.

**Good Utility Practice** - Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be



acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** - Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, the Interconnection Provider, or any Affiliate thereof.

**Interconnection Customer** - Any entity, including the Transmission Provider, the Transmission Owner or any of the affiliates or subsidiaries of either, that proposes to interconnect its Small Qualifying Facility with the Transmission Provider's Transmission system and/or Distribution System.

**Interconnection Facilities** - The Transmission Provider's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Small Qualifying Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Small Qualifying Facility to the Transmission Provider's Transmission system and/or Distribution System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades or Network Upgrades.

**Interconnection Request** - The Interconnection Customer's request to interconnect a new Small Qualifying Facility, or to increase the capacity of, or make a Material Modification to the operating characteristics of, an existing Small Qualifying Facility that is interconnected with the Transmission Provider's Transmission system and/or Distribution System.

**Material Modification** - A modification that has a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

**Net Metering Statute** - A state statute governing the interconnection terms associated with net metering.

**Network Upgrades** - Additions, modifications, and upgrades to the Transmission Provider's Transmission System required at or beyond the point at which the Small Qualifying Facility interconnects with the Transmission Provider's Transmission System to accommodate the interconnection of the Small Qualifying Facility with the Transmission Provider's Transmission System. Network Upgrades do not include Distribution Upgrades.

**Operating Requirements** - Any operating and technical requirements that may be applicable due to Regional Transmission Organization, Independent System Operator, control area, or the Transmission Provider's requirements, including those set forth in the Qualifying Facility Small Generator Interconnection Agreement.

**Party or Parties** - The Transmission Provider, Transmission Owner, Interconnection Customer or any combination of the above.

**Point of Interconnection** - The point where the Interconnection Facilities connect with the Transmission Provider's Transmission system and/or Distribution System.

**Reasonable Efforts** - With respect to an action required to be attempted or taken by a Party under the Qualifying Facility Small Generator Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Small Qualifying Facility** - The Interconnection Customer's device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities. The generating capacity of the Small Qualifying Facility shall not exceed 20 megawatts. The Small Qualifying Facility must meet the requirements of a qualifying cogeneration facility or qualifying small power production facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3.

**Tariffs** - Any tariff of the Transmission Provider accepted or approved by a state or federal regulatory agency, including, but not limited to, the Transmission Provider's Open Access Transmission Tariff, as amended or supplemented from time to time, or any successor tariff.

**Transmission Owner** - The entity that owns, leases or otherwise possesses an interest in the portion of the Transmission system and/or Distribution System at the Point of Interconnection and may be a Party to the Qualifying Facility Small Generator Interconnection Agreement to the extent necessary.

**Transmission Provider** - The public utility (or its designated agent) that owns, controls, or operates transmission or distribution facilities interconnecting with the Small Qualifying Facility . The term Transmission Provider should be read to include the Transmission Owner when the Transmission Owner is separate from the Transmission Provider.

**Transmission System** - The facilities owned, controlled or operated by the Transmission Provider or the Transmission Owner that are used to provide transmission service.

**Upgrades** - The required additions and modifications to the Transmission Provider's Transmission System or Distribution system at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities.

**Attachment 2 to QFSGIA**

**Description and Costs of the Small Qualifying Facility,  
Interconnection Facilities, and Metering Equipment**

**Small Qualifying Facility**

: A single Ideal Electric 3075 kVA synchronous generator/turbine for a total output limited to 2.95 MW. The Small Generating Facility also contains a 12.5kV/4160V, 5 MVA (Z=5.9%) step-up transformer. The facility is located in Franklin County, Idaho. See attachment 3.

**Interconnection Customer Interconnection Facilities:** A relay controlled recloser and disconnect switch. See Attachment 3.

**Transmission Provider's Interconnection Facilities:** Bi-directional metering and a disconnect switch.

**Estimated Cost of Transmission Provider's Interconnection Facilities:** Estimated cost of Transmission Provider's Interconnection Facilities directly assigned to Interconnection Customer: \$15,000

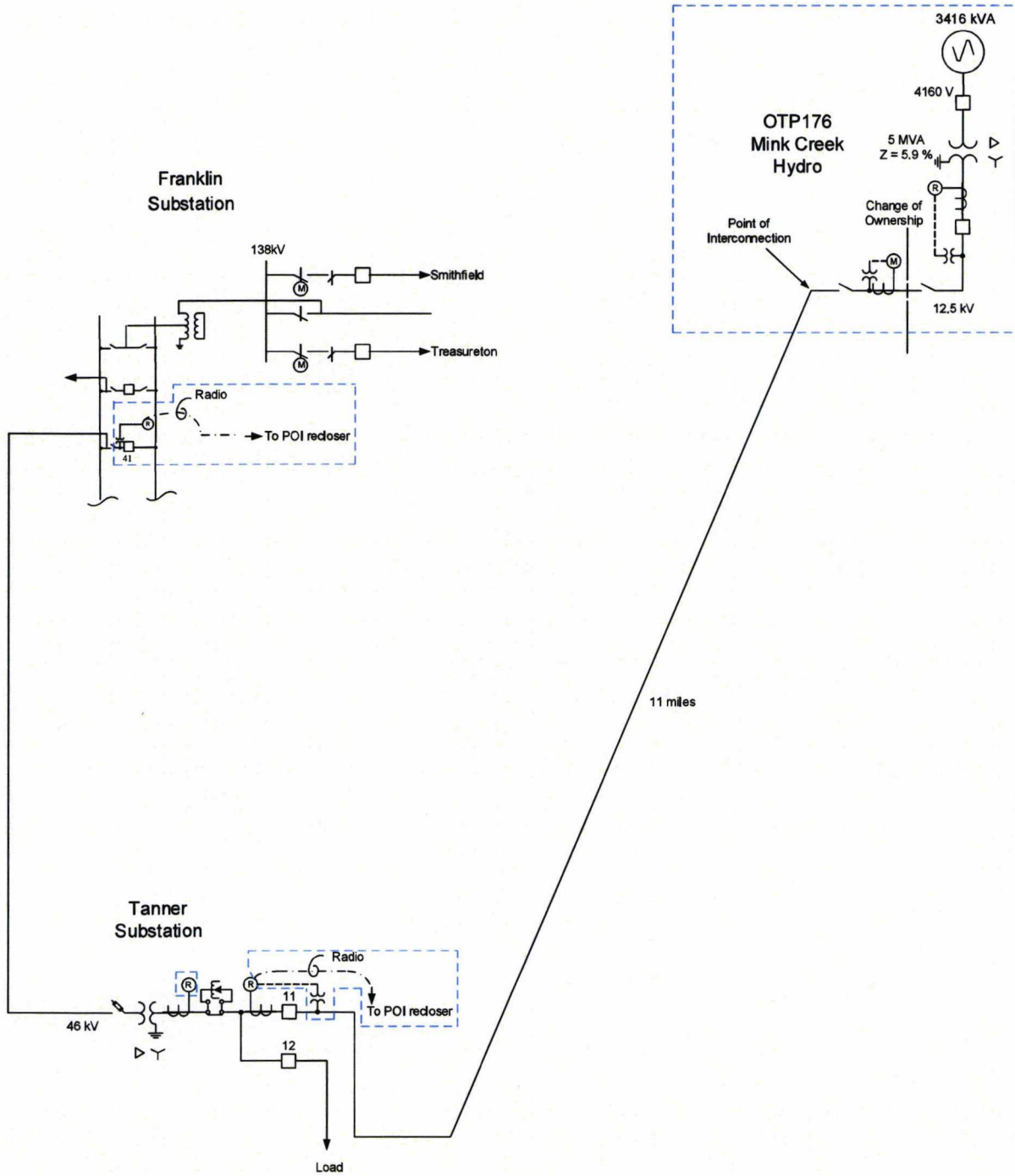
**Estimated Annual Operation and Maintenance Cost of Transmission Provider's Interconnection Facilities:** \$500. Interconnection Customer shall be responsible for Transmission Provider's actual cost for maintenance of the Transmission Provider's Interconnection Facilities.

**Point of Interconnection:** The point where the Transmission Provider's Interconnection Facilities connect to circuit TNR11 out of Tanner substation. See Attachment 3.

**Point of Change of Ownership:** The point where the Interconnection Customer's Interconnection Facilities connect to the Transmission Provider's Interconnection Facilities. See Attachment 3.

Attachment 3 to QFSGIA

One-line Diagram Depicting the Small Qualifying Facility, Interconnection Facilities, Metering Equipment, and Upgrades



**Milestones**

In-Service Date: March 16, 2023

Critical milestones and responsibility as agreed to by the Parties:

<b>Milestone/Date</b>	<b>Responsible Party</b>
Execute Interconnection Agreement Interconnection Customer February 25, 2022	
Interconnection Customer Financial Security Provided Interconnection Customer February 25, 2022	
*Interconnection Customer Initial Design Information Provided Interconnection Customer March 11, 2022	
Public Utility Engineering & Procurement Commences Public Utility March 21, 2022	
*Interconnection Customer Final Design Information Provided Interconnection Customer September 23, 2022	
Public Utility Engineering Design Complete Public Utility November 4, 2022	
Public Utility Construction Commences Utility January 16, 2023	Public
Interconnection Customer Maintenance Plan Submitted Interconnection Customer February 3, 2023	
Public Utility and Interconnection Customer Parties Construction Complete	Both

March 3, 2023

Public Utility Commissioning Complete  
Utility

Public

March 15, 2023

Commercial Operation  
Interconnection Customer  
March 16, 2023

Interconnection Customer to request in writing (email acceptable) Backfeed, First Sync, and Commercial Operations. Transmission Provider to approve requests without undue delay.

\*Interconnection Customer initial design package shall include radio system and relaying information. Interconnection Customer final design package shall include PE stamped issued for construction ("IFC") drawings for new infrastructure to be constructed.

**Attachment 5 to QFSGIA**

**Additional Operating Requirements for the Transmission  
Provider's Transmission System and/or Distribution System and  
Affected Systems Needed to Support the Interconnection  
Customer's Needs**

The Transmission Provider shall also provide requirements that must be met by the Interconnection Customer prior to initiating parallel operation with the Transmission Provider's Transmission System and/or Distribution System.

**Property Requirements**

Interconnection Customer is required to obtain for the benefit of Transmission Provider at Interconnection Customer's sole cost and expense all real property rights, including but not limited to fee ownership, easements and/or rights of way, as applicable, for Transmission Provider owned Facilities using Transmission Provider's standard forms. Transmission Provider shall not be obligated to accept any such real property right that does not, at Transmission Provider's sole discretion, confer sufficient rights to access, operate, construct, modify, maintain, place and remove Transmission Provider owned facilities or is otherwise not conveyed using Transmission Provider's standard forms. Further, all real property on which Transmission Provider's Facilities are to be located must be environmentally, physically and operationally acceptable to the Transmission Provider at its sole discretion.

Interconnection Customer is responsible for obtaining all permits required by all relevant jurisdictions for the project, including but not limited to, conditional use permits and construction permits; provided however, Transmission Provider shall obtain, at Interconnection Customer's cost and schedule risk, the permits necessary to construct Transmission Provider's Facilities that are to be located on real property currently owned or held in fee or right by Transmission Provider.

Except as expressly waived in writing by an authorized officer of Transmission Provider, all of the foregoing permits and real property rights (conferring rights on real property that is environmentally, physically and operationally acceptable to Transmission Provider) shall be acquired as provided herein as a condition to Transmission Provider's contractual obligation to construct or take possession of facilities to be owned by the Transmission Provider under this Agreement. Transmission Provider shall have no liability for any project delays or cost overruns



caused by delays in acquiring any of the foregoing permits and/or real property rights, whether such delay results from the failure to obtain such permits or rights or the failure of such permits or rights to meet the requirements set forth herein. Further, any completion dates, if any, set forth herein with regard to Transmission Provider's obligations shall be equitably extended based on the length and impact of any such delays.

#### As-Built Documentation

Within sixty (60) Calendar Days after the Commercial Operation Date, unless the Parties agree on another mutually acceptable deadline, Interconnection Customer shall deliver to Public Utility "as-built" drawings, information and documents for the Interconnection Customer's Interconnection Facilities, such as: a one-line diagram, site plan, relay functional diagram, relaying AC and DC schematic wiring diagrams, relay settings and step-up transformer documentation as applicable.

#### Relay and Control Settings.

Interconnection Customer must allow the Transmission Provider to hold all Level 2 relay passwords for any control and/or protective device within their control at the Point of Interconnection and/or Small Qualifying Facility which directly impacts the Transmission Provider's distribution and/or transmission systems. Level 2 passwords are those which allow actual modifications to control and/or relay settings. This will ensure the Transmission Provider is aware of and approves any changes being made by the Interconnection Customer. Furthermore; this will ensure there are no negative impacts to the Transmission Provider's distribution system, transmission system, or existing customer base. Should the Interconnection Customer require modification to the settings associated with control/protective devices connected to the distribution and/or transmission system they will contact the Transmission Provider and provide in writing the justification and/or need for the proposed modifications. This will allow the Transmission Provider time to analyze and ensure there are no negative impacts to the associated connected systems and customers. Any modifications of control and/or relay settings without review and acknowledgement of acceptance by Transmission Provider will be considered a breach of interconnect agreement and could lead to permanent disconnection from the Transmission Provider's system.

**Attachment 6 to QFSGIA**

**Transmission Provider's Description of its Upgrades  
and Best Estimate of Upgrade Costs**

Distribution Upgrades: Relaying and monitoring equipment in both Tanner and Franklin substations.

Estimated Cost: \$319,000

Network Upgrades: None

Contingent Facilities. As identified in the System Impact Study for this project dated October 5, 2021 the following upgrades are required to be in-service prior to this project:

- None

## Scope of Work

### Generating Facility Modifications

The following outlines the design, procurement, construction, installation, and ownership of equipment at the Interconnection Customer's Generation Facility.

#### INTERCONNECTION CUSTOMER TO BE RESPONSIBLE FOR

- Own and maintain the Interconnection Customer's generating facility and associated collector system.
- Operate the Small Generating Facility under constant power factor mode with a unity power factor setting unless specifically requested otherwise by the Transmission Provider. The Small Generating Facility is expressly forbidden from actively participating in voltage regulation of the Public Utilities system without written request or authorization from the Transmission Provider. The Small Generating Facility shall have sufficient reactive capacity to enable the delivery of 100 percent of the plant output to the POI at unity power factor measured at 1.0 per unit voltage under steady state conditions.
- Equip the Small Generating Facility generators capable of operating under voltage reactive power mode, active power reactive power mode, and constant reactive power mode as per IEEE standard 1547-2018. This project shall be capable of activating each of these modes one at a time. The Transmission Provider reserves the right to specify any mode and settings within the limits of IEEE standard 1547-2018 needed before or after the Small Generating Facility enters service. The Interconnection Customer shall be responsible for implementing settings modifications and mode selections as requested by the Transmission Provider within an acceptable timeframe.
- Operate the Small Generating Facility under constant power factor mode with a unity power factor setting unless specifically requested

otherwise by the Transmission Provider. The Small Generating Facility is expressly forbidden from actively participating in voltage regulation of the Transmission Provider's system without written request or authorization from the Transmission Provider.

- Operate the Small Generating Facility so minimum power quality requirements in PacifiCorp's Engineering Handbook section 1C are met, the standards are available at <https://www.pacificpower.net/about/power-quality-standards.html>. Requirements specified in the System Impact Study that exceed requirements in the Engineering Handbook section 1C power quality standards shall apply.
- As per NERC standard VAR-001-1, the Transmission Provider is required to specify voltage or reactive power schedule at the Point of interconnection. Under normal conditions, the Transmission Provider's system should not supply reactive power to the Small Generating Facility.
- Replace the Interconnection Customer's existing relay/controller associated with its recloser and install Schweitzer Engineering Laboratories ("SEL") 351R or 651R unit to perform the following functions:
  - Detect faults in the 12.5 - 4.16 kV transformer
  - Detect faults on the 12.5 kV line to Tanner substation
  - Monitor the voltage and react to under or over frequency, and /or magnitude of the voltage
  - Receive transfer trip from Tanner substation
  - Receive transfer trip from Franklin Substation
  - Disconnect the Small Generating Facility for any loss of communications of the Interconnection Customer's communications system of more than 18 cycles (0.3 seconds).
- Procure and install a three phase set of voltage instrument transformers on the Transmission Provider side of the recloser.

- Input the settings provided by the Transmission Provider into the recloser relay.
- Provide the Transmission Provider Level 2 password control of the recloser relay.
- Design, construct, own and maintain a radio system that can receive signals from the Transmission Provider's Tanner and Franklin substation for transfer trip. This radio system must be capable of receiving and implementing the transfer trip signals in 18 cycles (0.3 seconds) or less.
- Install a UPS or backup battery system for the Interconnection Customer radio system to provide ride through power in the event of an interruption of the AC power system.
- Provide the Transmission Provider a Professional Engineer ("PE") stamped maintenance plan for all protective devices including the recloser/relay.

**TRANSMISSION PROVIDER TO BE RESPONSIBLE FOR**

- Develop and provide the settings for Applicant's recloser relay.
- Observe and provide acceptance of the relay settings in the Applicant recloser relay.

**Other**

The following outlines the design, procurement, construction, installation, and ownership of equipment past the Point of Interconnection.

**INTERCONNECTION CUSTOMER TO BE RESPONSIBLE FOR**

- Tanner Substation
  - Design, construct, own and maintain a radio system near the substation fence that can send signals to the radio system at the Small Generating Facility. This radio system must be capable of sending and implementing the transfer trip signal in 18 cycles (0.3 seconds) or less.
  - Install Transmission Provider approved fiber optic cable in conduit from the radio to a point designated by the Transmission Provider at or near the substation fence. Leave a sufficient amount of cable for the Transmission Provider to splice to its

cable running from the substation control building.

- o Coordinate with the Transmission Provider on testing and commissioning of the communications path between Tanner substation and the Small Generating Facility.
  - o Procure permanent AC service to the Interconnection Customer's radio equipment.
  - o Install a UPS or backup battery system for the Interconnection Customer radio system to provide ride through power in the event of an interruption of the AC power system.
- Franklin Substation
    - o Design, construct, own and maintain a radio system near the substation fence that can send signals to the radio system at the Small Generating Facility. This radio system must be capable of sending and implementing the transfer trip signal in 18 cycles (0.3 seconds) or less.
    - o Install Transmission Provider approved fiber optic cable in conduit from the radio to a point designated by the Transmission Provider at or near the substation fence. Leave a sufficient amount of cable for the Transmission Provider to splice to its cable running from the substation control building.
    - o Coordinate with the Transmission Provider on testing and commissioning of the communications path between Tanner substation and the Small Generating Facility.
    - o Procure permanent AC service to the Interconnection Customer's radio equipment.
    - o Install a UPS or backup battery system for the Interconnection Customer radio system to provide ride through power in the event of an interruption of the AC power system.

**TRANSMISSION PROVIDER TO BE RESPONSIBLE FOR**

- Tanner Substation
  - o Procure and install voltage instrument transformers on the line side of circuit breaker ("CB") 11.

- Procure and install a relay to detect reversed current flow into the 46-12.5 kV transformer from the 12.5 kV side.
  - Set the overcurrent elements in the relay for CB11 to directional.
  - Install a dead line check control circuit on CB11.
  - Install fiber optic cable in conduit from the substation control building to the location of the Interconnection Customer's fiber outside the substation fence and splice the fibers.
  - Install the necessary communications equipment to facilitate the transfer trip scheme through the communications system to the Interconnection Customer's Small Generating Facility.
- Franklin Substation
    - Procure and install a 46 kV CCVT.
    - Install a dead line check control circuit on CB41.
    - Install fiber optic cable in conduit from the substation control building to the location of the Interconnection Customer's fiber outside the substation fence and splice the fibers.
    - Install the necessary communications equipment to facilitate the transfer trip scheme through the communications system to the Interconnection Customer's Small Generating Facility.
- Transfer Trip
    - Develop and implement a transfer trip scheme to trip the Interconnection Customer's Small Generating Facility offline for the following conditions:
      - Opening of CB11 at Tanner substation.
      - Opening of CB41 at Franklin substation.
      - Faults in the 46-12.5 kV transformer in Tanner substation.
      - Faults on the 46 kV line between Franklin and Tanner substation.

**Attachment 8 to QFSGIA**

**Interconnection and Operating Requirements**

(see attached Policy 138)