

1 **WestConnect Planning Participation Agreement**
2 **Amended and Restated February 8, 2016**

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11 exhibit shall be revised from time to time to reflect new and withdrawn parties.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

15 **1. RECITALS**

16 **1.1.** Historically, WestConnect has participated in both transmission planning
17 activities and other non-transmission activities. Initially, transmission planning
18 activities were pursued in coordination with the transmission planning activities of
19 various subregional planning groups such as the Colorado Coordinated Planning
20 Group (“CCPG”), Sierra Subregional Planning Group (“SSPG”) and Southwest Area
21 Transmission Planning Group (“SWAT”).

22 **1.2.** Later, with the issuance by FERC of Order No. 890, Public Utility
23 transmission owners, including those that had participated in WestConnect’s early

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

24 transmission planning activities, achieved compliance with the transmission planning
25 requirements of Order No. 890 by entering into the WestConnect Project Agreement
26 for Subregional Transmission Planning dated May 23, 2007, as amended (“STP
27 Agreement”).

28 **1.3.** Pursuant to Order No. 1000, Public Utility transmission owners are required
29 to enroll in an identified region for purposes of complying with FERC’s new regional
30 planning process requirements, and also with FERC’s new requirements governing
31 interregional coordination.

32 **1.4.** The Public Utilities that are Parties to this Agreement have chosen to
33 execute the Agreement to achieve compliance with Order No. 1000 through
34 membership in the WestConnect Planning Region.

35 **1.5.** The Parties desire to suspend the STP Agreement, to effectuate a seamless
36 transition from the STP Agreement processes into the new regional planning process
37 described herein, and to formalize the Parties’ relationships and establish obligations
38 among them.

39 **1.6.** This Agreement creates a WestConnect Order No. 1000 regional
40 transmission Planning Management Committee (the “PMC”), which is responsible
41 for administering the new WestConnect Regional Planning Process.

42 **1.7.** The PMC will include Members from State Regulatory Commissions in the
43 Western and Southwestern United States. The State Regulatory Commissions
44 (“SRCs”) are uniquely situated as Members of the PMC and, therefore, no provision
45 in this Agreement shall operate in any way to limit the authority of an SRC over
46 matters within its jurisdiction or bind any SRC to any particular course of action in
47 proceedings outside of the WestConnect Regional Planning Process; and other

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

50 **1.8.** The WestConnect Regional Planning Process administered by the PMC is
51 an independent, stand-alone process that is conducted pursuant to this Agreement and
52 is not subordinate to or interlinked with any other WestConnect process. The
53 committees formed under the STP Agreement and the WestConnect Steering
54 Committee have no authority over the PMC or the PMC's decision-making in
55 implementing the Regional Planning Process.

56 **2. AGREEMENT**

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

59 **3. DEFINITIONS**

60 **3.1. Business Practice Manual ("BPM"):** The document adopted and updated
61 from time to time by the PMC to describe the WestConnect Regional Planning
62 Process developed for compliance with Order No. 1000.

63 **3.2. Coordinating Transmission Owner ("CTO"):** A TOLSO sub-sector
64 Member as defined in Section 6.1.1.2 herein.

65 **3.3. Cost Allocation:** The identification of cost responsibility for projects
66 meeting the requirements for being selected in the Regional Transmission Plan for
67 purposes of Order No. 1000 cost allocation.

68 **3.4. Cost Allocation Subcommittee:** A standing subcommittee of the PMC.
69 The responsibilities of the Cost Allocation Subcommittee are described in Section
70 8.4.2 hereof.

71 **3.5. Enrolled Transmission Owner (“ETO”):** A TOLSO sub-sector Member
72 as defined in Section 6.1.1.1 herein.

73 **3.6. Effective Date:** The date on which this Agreement has been executed by at
74 least five Public Utility TOLSO Members, or October 1, 2015, whichever occurs last.

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

78 **3.8. Federal Member:** A Member entity that is an administrative agency
79 within the Executive Branch of the United States Government.

80 **3.9. FERC or Commission:** The Federal Energy Regulatory Commission or its
81 successor organization.

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

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

89 **3.12. Generator Owner (“GO”):** An entity that owns one or more generating
90 units.

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

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

97 **3.14. Legal Subcommittee:** A standing subcommittee of the PMC. The
98 responsibilities of the Legal Subcommittee are described in Section 8.4.3 hereof.

99 **3.15. Load Serving Entity (“LSE”):** An entity that secures energy and
100 transmission service (and related interconnected operations services) to serve the
101 electrical demand and energy requirements of its end use customers.

102 **3.16. Member:** An entity that satisfies the requirements of Sections 5 and 6 of this
103 Agreement.

104 **3.17. Member Sector:** A group of Members described in Section 6 hereof.

105 **3.18. NERC:** The North American Electric Reliability Corporation or its successor
106 organization.

107 **3.19. Non-Governmental Organization (“NGO”):** An organization that has
108 received a determination of tax-exempt status from the Internal Revenue Service (a)
109 under Section 501(c)(3) of the Internal Revenue Code organized and operating
110 exclusively for one of the following purposes: religious, charitable, scientific, testing
111 for public safety, literary or educational; (b) under Section 501(c)(4) of the Internal
112 Revenue Code; or (c) under Section 501(c)(6) of the Internal Revenue Code based
113 upon a determination letter received from the Internal Revenue Service or its self-
114 certification which has been approved by the Internal Revenue Service.

115 **3.20. Non-Public Utility:** An entity that is described in Section 201(f) of the
116 Federal Power Act, 16 U.S.C. 824(f), that is engaged in the sale of electric energy at
117 wholesale in interstate commerce or in the transmission of energy in interstate
118 commerce.

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

123 **3.22. Planning Commencement Date:** January 1, 2015, for the one-year
124 abbreviated cycle. January 1, 2016, for the standard biennial planning process.

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

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

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

134 **3.26. Public Utility:** An entity defined in Section 201(e) of the Federal Power Act,
135 16 U.S.C. 824(e).

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

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

143 **3.29. State Regulatory Commission (“SRC”):** A Member meeting the criteria set
144 forth in Section 6.1.4 herein.

145 **3.30. Transmission Owner with Load Serving Obligations (“TOLSO”):** A
146 Member meeting the criteria set forth in Section 6.1.1 herein.

147

148 **3.31. WECC:** The Western Electricity Coordinating Council or its successor
149 organization.

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

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

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

165

166 **4. SUSPENSION OF THE STP AGREEMENT FOR SUBREGIONAL**
167 **TRANSMISSION PLANNING**

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

176 **5. WESTCONNECT PLANNING REGION ENROLLMENT, MEMBER**
177 **SECTOR CHANGES, WITHDRAWAL, AND TERMINATION OF**
178 **AGREEMENT**

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

192 **5.2. Membership of Non-Public Utilities.** A Non-Public Utility that meets the
193 criteria for membership in the TOLSO Member Sector, as described in Section 6.1.1,
194 may elect to join the TOLSO Member Sector as an ETO or as a CTO by providing an
195 executed copy of the Member Sector Notification form attached to this Agreement.
196 Except as special circumstances warrant otherwise and as determined by the
197 affirmative vote of the PMC, the PMC will make a decision on membership
198 approvals no later than the second in-person PMC meeting after receipt of the
199 Member Sector Notification form. For the first abbreviated planning cycle, the PMC
200 will act on or before September 1, 2015 on any Non-Public Utility member
201 application received on or before July 1, 2015. If a Non-Public Utility joins a
202 Member Sector other than the TOLSO Sector, the PMC will not perform the function
203 of regional transmission planning for the Non-Public Utility.

204 **5.3. Effective Dates of Enrollment and Membership.** A list of current ETOs
205 is maintained in the OATTs of the Public Utility ETOs, which shall report revisions
206 to the list of ETOs through filing updates of the respective OATTs with the
207 Commission. The effective date of enrollment of a Public Utility ETO is the
208 effective date of its OATT filing adding its name to the list of ETOs. The effective
209 date of membership of all other Members is the date that the Member's Member
210 Sector designation is approved by the PMC.

211 **5.4. Unenrollment.** Any Non-Public Utility ETO seeking to unenroll from the
212 region must do so under Section 5.6, governing the withdrawal of Members.

213 **5.4.1.** An unenrolling Non-Public Utility ETO will continue to be subject
214 to Cost Allocation for its share of the transmission facilities that were first
215 selected for Cost Allocation in the WestConnect Regional Planning Process in

216 prior planning cycles as to which it was enrolled, subject to reevaluation in the
217 WestConnect Regional Planning Process.

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

223 **5.5. Member Sector Changes**

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

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

240 **5.5.3.** A Member's change in Member Sector will not affect the
241 continuation of this Agreement. Other than as set forth as a PMC responsibility
242 under Section 8.3 herein, no Member shall oppose any other Member's election
243 or change of Member Sectors except that this section will not operate to limit the
244 authority of a SRC to address the membership of a Public Utility over which it
245 has jurisdiction outside the WestConnect Regional Planning Process.

246 **5.5.4.** Notwithstanding a Member's change of Member Sector pursuant to
247 this Section, the changing Member shall continue to be obligated to fulfill its
248 Member responsibilities, including but not limited to payment of dues in
249 accordance with this Section 5.5 and with Sections 6.4 and 6.5.

250 **5.5.5.** A Member's change in Member Sectors does not prevent that
251 Member from future membership in any Member Sector for which it qualifies.

252 **5.5.6.** A Member giving notice of a change in its Member Sector may
253 rescind that notice at any time prior to the change becoming effective by
254 providing written notice of its rescission to the Chair of the PMC.

255 **5.6. Withdrawal of a Member**

256 **5.6.1.** Any Member may withdraw its participation in this Agreement
257 upon a 180 calendar day written notice to the Chair of the PMC. In the event a
258 Member provides the notice to withdraw prior to July 1st, the withdrawing
259 Member shall remain obligated to pay its annual dues pursuant to Sections 6.4.2
260 and 6.4.3 or its share of expenses pursuant to Section 6.4.5 for the remainder of
261 the calendar year in which the withdrawal takes place. In the event a Member
262 provides a notice to withdraw on or after July 1st, the withdrawing Member shall
263 remain obligated to pay its annual dues or its share of expenses for that calendar

264 year and the following calendar year. Members also may withdraw in accordance
265 with Section 5.6.8 of this Agreement.

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

285 **5.6.3.** If a Member declines to execute a modification to the Agreement
286 approved in accordance with Section 12.4 herein, that Member shall be obligated
287 to submit its notice of withdrawal from the Agreement in accordance with

288 Section 5.6. If a Member is prohibited from executing a modification to the
289 Agreement due to legal constraints, or in the case of a TOLSO Member due to
290 conflict with its transmission tariff, this Section 5.6.3 shall not apply.

291 **5.6.4.** A Member's withdrawal shall not affect the continuation of this
292 Agreement for remaining Members. No Member shall oppose any other
293 Member's withdrawal, except that this section shall not operate to limit the
294 authority of an SRC to address the membership of a Public Utility or Non-Public
295 Utility over which it has jurisdiction outside the WestConnect Regional Planning
296 Process.

297 **5.6.5.** Notwithstanding a Member's notice of withdrawal, the withdrawing
298 Member shall continue to be obligated to fulfill its responsibilities imposed under
299 this Agreement, including but not limited to its funding responsibilities as set
300 forth in Section 6.4 hereof. An ETO that withdraws its participation in this
301 Agreement shall not be subject to binding Cost Allocation for any transmission
302 facility selected in the WestConnect Regional Planning Process for purposes of
303 Cost Allocation subsequent to such TOLSO Member's withdrawal. If
304 withdrawal of a TOLSO Member from the Agreement affects Cost Allocation for
305 a transmission facility selected in the WestConnect Regional Planning Process for
306 purposes of Cost Allocation, upon receipt of the notice of withdrawal, the PMC
307 shall reevaluate the transmission facility pursuant to the WestConnect Regional
308 Planning Process.

309 **5.6.6.** A Member's withdrawal does not prevent that Member from
310 reapplying as a Member in any Member Sector for which it qualifies.

311 **5.6.7.** A Member's withdrawal does not prevent that Member from
312 engaging in WestConnect Regional Planning Process activities as a stakeholder
313 outside of this Agreement. Each Public Utility TOLSO Member has on file with
314 FERC tariff provisions that provide for generally-applicable stakeholder
315 participation in the regional planning process for the WestConnect Planning
316 Region. A Member that withdraws from this Agreement is eligible to participate
317 in the regional planning process as a stakeholder by attending publicly-posted
318 WestConnect regional transmission planning stakeholder meetings and/or by
319 submitting project proposals for consideration and evaluation in the regional
320 planning process.

321 **5.6.8.** Notwithstanding any other provision in this Agreement, a Member
322 may withdraw immediately its participation in this Agreement at any time upon
323 written notice to the Chair of the PMC if that Member determines in its sole
324 discretion that there is a material risk of adverse regulatory action or FERC
325 orders a modification of this Agreement or imposes a material condition upon
326 participation in this Agreement adversely affecting such Member. If the
327 Member's notice of withdrawal pursuant to this Section 5.6.8 is given prior to
328 July 1st, the withdrawing Member shall remain obligated to pay its annual dues
329 under Section 6.4.3 or its share of expenses under Section 6.4.5 for the remainder
330 of the calendar year in which the withdrawal takes place. If a Member's notice of
331 withdrawal is given on or after July 1st, the withdrawing Member shall remain
332 obligated to pay its annual dues or its share of expenses pursuant to Section 6.4
333 for that calendar year and the following calendar year.

334 **5.6.9.** A Member giving notice of its withdrawal may rescind that notice
335 prior to its withdrawal becoming effective by providing written notice of its
336 rescission to the other Members, as long as the written notice of rescission is
337 provided no later than 30 days prior to the Member’s withdrawal becoming
338 effective.

339 **5.7. Termination of Agreement by TOLSOs**

340 **5.7.1.** The ETOs have sole discretion to terminate this Agreement, upon a
341 unanimous vote of ETOs provided that certain sections of this Agreement are
342 expressly identified to survive termination.

343 **5.7.2.** If termination is approved under this Section 5.7, the Agreement
344 will terminate on the date specified by the ETOs who vote to terminate it
345 pursuant to Section 5.7.1 above, which will be no later than 90 days after the vote
346 to terminate.

347 **6. MEMBERS AND MEMBERSHIP**

348 **6.1. Member Sectors.** The Member Sectors in this Agreement are as follows:

349 **6.1.1. Transmission Owner with Load Serving Obligations**

350 **(“TOLSO”) Member Sector:** A sector composed of entities that (1) provide
351 transmission service and own a minimum of one hundred (100) circuit miles or
352 \$100 million of original installed cost of transmission plant rated at 115 kV and
353 higher within the Western Interconnection; and (2) serve a minimum of 150 MW
354 of retail and/or wholesale network load within the Western Interconnection. As it
355 pertains to the requirements above, TOLSO Members may include but are not
356 limited to vertically-integrated utilities, generation and transmission cooperative
357 associations, federal power marketing administrations, municipal utilities and

358 joint action agencies whose members are registered with NERC as Load Serving
359 Entities. Joint action agencies that meet requirement (1), above, on a standalone
360 basis, and can meet requirement (2), above, by virtue of their members, are
361 eligible to join the TOLSO Member Sector. Corporate affiliates of TOLSOs that
362 do not meet requirement number (1) above on a standalone basis are eligible to
363 join the TOLSO Member Sector, provided that they meet requirement number (2)
364 above. For purposes of cost sharing of legal costs and the costs to conduct the
365 WestConnect regional transmission planning process, TOLSO Members that are
366 corporate affiliates of each other shall be considered one entity. This TOLSO
367 Member Sector is further portioned into the following two (2) sub-Sectors:

368 **6.1.1.1. Enrolled Transmission Owner (“ETO”):** A sub-sector composed
369 of Members that enroll in the TOLSO Member Sector for purposes of Cost
370 Allocation pursuant to Order No. 1000.

371 **6.1.1.2. Coordinating Transmission Owner (“CTO”):** A sub-sector
372 composed of Members that join the TOLSO Member Sector to participate in
373 the WestConnect Regional Planning Process without enrolling for Order No.
374 1000 Cost Allocation purposes.

375 **6.1.2. Transmission Customer (“TC”) Member Sector:** A sector
376 composed of entities that receive transmission service or generator
377 interconnection service pursuant to an agreement with a TOLSO Member or
378 ITDO Member. TC Members may include, but are not limited to, generation
379 developers, Generator Owners, Load Serving Entities and Purchasing-Selling
380 Entities. To qualify as a TC Member, a generation developer must have entered
381 into a GIA with a TOLSO Member or an ITDO Member.

382 **6.1.3. Independent Transmission Developer or Owner (“ITDO”)**

383 **Member Sector:** A sector composed of entities that either (1) plan to develop
384 one or more transmission projects rated at 115 kV or higher within the
385 WestConnect Planning Region, which project(s) must have been submitted into
386 the WECC Regional Planning Project Review Process and the WestConnect
387 Regional Planning Process for reliability assessment; or (2) own transmission
388 facilities rated at 115 kV or higher located within or connected to the
389 WestConnect Planning Region but does not serve a minimum of 150 MW of
390 retail and/or wholesale network load.

391 **6.1.4. State Regulatory Commission (“SRC”) Member Sector:** A

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

396 **6.1.5. Key Interest Group (“KIG”) Member Sector:** A sector

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

401 **6.2. Active and Inactive Members.** A Member has all rights and obligations
402 under this Agreement as long as it maintains Active Member status. To maintain
403 Active Member status, (1) a Member’s designated representative or alternate must
404 attend at least three (3) PMC meetings within each rolling 12-month period in person
405 or by teleconference or video conference; and (2) a Member must meet the funding

406 requirements (if any) set forth in Section 6. A Member that does not meet these
407 requirements will be deemed an Inactive Member by the PMC. An Inactive Member
408 may be reinstated upon demonstration of renewed, current compliance with the
409 Active Member requirement(s), including payment of any delinquent dues and
410 expenses. A Member may designate itself as an Inactive Member at any time by
411 providing thirty (30) days' written notice to the PMC Chair. Such self-designated
412 Inactive Member status will be effective until the Inactive Member provides thirty
413 (30) days' written notice that it wishes to be reinstated as an Active Member and that
414 it meets the Active Member requirements and is approved for reinstatement as an
415 Active Member by the PMC. An Inactive Member may not participate as a voting
416 member in the WestConnect Regional Planning Process other than to fulfill its
417 obligations for funding the WestConnect Regional Planning Process (if any) during
418 the inactive period. A Member that is in Inactive status for two consecutive years
419 shall be deemed withdrawn from the Agreement.

420 **6.3. Change in Member Status by the PMC.** The PMC, by a vote of all five
421 Member Sectors, provided that each sector approves such action with a minimum of
422 75% of the voting members present in person or by teleconference or video
423 conference, may designate a Member as Inactive, or terminate the membership of a
424 Member, for a failure to meet any of such Member's obligations under this
425 Agreement, including, but not limited to: (1) non-payment of dues, fees, penalties, or
426 other amounts assessed pursuant to this Agreement; (2) intentionally or repeatedly
427 violating any PMC policy or practice; (3) breaching or intentionally violating any
428 relevant decision by a regulatory body with jurisdiction over the issue; or (4)
429 willfully obstructing any lawful purpose or activity of the PMC; provided that

430 initiating a dispute in accordance with Section 10 of this Agreement shall not be
431 grounds for designating a Member as Inactive or terminating its membership.

432 **6.4. Funding**

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

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

442 **6.4.2.1.** KIG Members with annual operating budgets exceeding
443 \$15,000,000 shall pay dues of \$3,250 per calendar year.

444 **6.4.2.2.** KIG Members with annual operating budgets between \$8,000,001
445 and \$15,000,000 shall pay dues of \$1,200 per calendar year.

446 **6.4.2.3.** KIG Members with annual operating budgets between \$4,000,001
447 and \$8,000,000 shall pay dues of \$650 per calendar year.

448 **6.4.2.4.** KIG Members with annual operating budgets between \$2,000,001
449 and \$4,000,000 shall pay dues of \$325 per calendar year.

450 **6.4.2.5.** KIG Members with annual operating budgets less than \$2,000,001
451 shall not be responsible for membership dues.

452 **6.4.3.** Each KIG Member (except those exempted from paying dues or
453 subject to alternate dues amount pursuant to Section 6.4.2), TC Member and
454 ITDO Member shall pay dues of \$5,000 per calendar year.

455 **6.4.4.** Dues shall be paid no later than January 31 of each calendar year or
456 within forty-five (45) calendar days of executing the Agreement.

457 **6.4.5. TOLSO Members.** TOLSO Members shall be responsible for
458 funding the expenses to carry out the activities and functions of the WestConnect
459 Regional Planning Process as approved by the PMC pursuant to the Agreement
460 that are in excess of (1) funds provided pursuant to Section 6.4.2 hereof and (2)
461 funds provided by project proponents and interested parties for planning study
462 requests as described in the BPM. Such expenses shall be divided among the
463 TOLSO Members according to the following formula:

| | | | |
|-----|----------|---|---|
| 464 | c | = | $(0.5 (1/x + y/\sum y)) \times 100$, where: |
| 465 | c | = | each TOLSO Member's expense share percentage |
| 466 | x | = | the total number of TOLSO Members under this Agreement |
| 467 | y | = | each TOLSO Member's annual energy in MWh delivered to the |
| 468 | | | TOLSO Member's load residing in the WestConnect Planning Region, |
| 469 | | | and |
| 470 | $\sum y$ | = | the total of all TOLSO Members' annual energy in MWh delivered |
| 471 | | | to the TOLSO Members' load residing in the WestConnect Planning Region. |

472
473 The TOLSO Members shall update the load ratio shares calculation ($y/\sum y$)
474 annually. Additionally, the total expense share percentage for each TOLSO

475 Member, calculated according to the formula above, shall be updated in any
476 month in which the total number of TOLSO Members changes.

477 **6.5. Finance Agent; Billing and Payment**

478 **6.5.1.** Within ninety (90) days of the Effective Date, the PMC shall
479 appoint a TOLSO member as the Finance Agent. In the event no TOLSO
480 Member is willing to serve as Finance Agent, the PMC shall appoint a third party
481 to serve as Finance Agent.

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

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

494 **6.5.4.** The Finance Agent shall bill TOLSO Members on a monthly basis
495 according to the expense ratio allocations calculated pursuant to Section 6.4.5.
496 All other Members will be billed on an annual basis pursuant to section 6.4. In
497 preparing the billing, the Finance Agent shall take into consideration the current
498 PMC cash balance, the anticipated PMC expenditures in the next sixty (60) days

499 based upon PMC contractual or other commitments, and other PMC budgeted
500 expenses, including the Finance Agent's costs incurred fulfilling its obligations
501 under this Section 6, for the next sixty (60) days, as may be adjusted to more
502 appropriately reflect forecasted PMC expenditures for the next sixty (60) days.

503 **6.5.5.** Each Member shall provide the Finance Agent with the mailing
504 address and e-mail address of its PMC Representative and the name, mailing
505 address and e-mail address of a second person authorized by the Member to
506 receive invoices, which shall be sent by the Finance Agent via e-mail or other
507 electronic communications.

508 **6.5.6.** All amounts billed to the Members under this Agreement will be due
509 and payable to the Finance Agent within forty-five (45) business days following
510 the billing date. The billing date will be the date on which invoices are sent to the
511 parties pursuant to Section 6.5.5 via e-mail or other electronic communications.
512 If a Member disputes the amount billed to it, it shall timely pay the full amount
513 due under protest and provide Written Notice of Dispute to the Legal
514 Subcommittee in accordance with the procedures described in Section 10 hereto
515 within forty-five (45) business days following the billing date. Absent timely
516 written notice of a billing dispute, a Member shall be deemed to have approved
517 the amounts billed for that applicable billing period.

518 **6.5.7.** Failure of a Member to timely pay amounts billed will constitute a
519 payment default under this Agreement. The Finance Agent shall provide written
520 notice of the existence of a payment default to the defaulting Member and to the
521 Chair of the PMC within ten (10) calendar days following the date of payment
522 default. After receipt of such notice of payment default, the defaulting Member

523 shall take all steps necessary to promptly and completely cure such payment
524 default within thirty (30) calendar days of the date that the Finance Agent mailed
525 or delivered the notice of payment default to the defaulting Member. In the event
526 that the defaulting Member does not cure the payment default within thirty (30)
527 calendar days of the date that the Finance Agent mailed or delivered the notice of
528 payment default to the defaulting Member, the PMC may designate the Member
529 as Inactive or terminate its membership as herein provided.

530 **6.5.8.** The Finance Agent shall credit interest earned on the operating
531 account toward operating expenses under this Agreement.

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

539 **6.5.10.** In the event that the Agreement is terminated, the Finance Agent
540 shall, after paying all bills, liquidate the operating account and refund remaining
541 monies to Members. Funds shall be distributed in accordance with direction
542 provided by the PMC based pro rata on funds contributed by each Member.

543 **7. WESTCONNECT REGIONAL PLANNING PROCESS**

544
545 The WestConnect Regional Planning Process is conducted pursuant to a biennial
546 planning cycle which is more fully described in the respective Members' OATTs on
547 file with the Commission, as supplemented by the BPM. Each step in the

548 WestConnect Regional Planning Process is overseen and requires approval by the
549 PMC. The WestConnect Regional Planning Process includes, but may not be limited
550 to, the following general steps:

551 **7.1. Development of the Regional Study Plan.** The WestConnect Regional
552 Planning Process will develop a regional study plan at the start of each biennial
553 planning cycle, which will include, but not be limited to, determination of base cases,
554 the study time frame, planning data and assumptions, enacted public policy
555 requirements incorporated in TOLSO Members' local planning processes, alternative
556 scenarios to be studied, computer software that will be utilized, and the proposed
557 schedule and mechanisms for stakeholder involvement in the WestConnect Regional
558 Planning Process.

559 **7.2. Development of Planning Models.** Upon PMC approval of the regional
560 study plan, the WestConnect Regional Planning Process will develop the power flow
561 and production cost models required to perform the technical studies outlined in the
562 regional study plan, including but not limited to determination of required data and
563 assumptions on loads, transmission, generation and non-transmission alternatives
564 additions and retirements, heat rates, ramp rates, fuel costs, and maintenance and
565 forced outages.

566 **7.3. Identification of Regional Transmission Needs.** Upon PMC approval of
567 the planning models, the WestConnect Regional Planning Process will commence
568 identification of regional transmission needs, which will include but not be limited to
569 evaluation and validation of the planning models; performance of systems
570 assessments to evaluate regional reliability needs, economic needs, and needs
571 required to meet public policy requirements; and sharing planning model information

572 and identified regional needs for the WestConnect Planning Region with other
573 regional planning entities in the Western Interconnection.

574 **7.4. Submittal of Projects to Meet Regional Transmission Needs.** Upon
575 PMC approval of identified regional transmission needs, the WestConnect Regional
576 Planning Process will conduct an open process for submittal of projects to meet
577 identified regional transmission needs by Active Members in good standing, as
578 defined in Section 6.2 of this Agreement. Valid project submittals may include
579 proposed transmission projects, both projects seeking and not seeking Cost
580 Allocation, and proposed non-transmission alternatives.

581 **7.5. Identification of Projects that Meet Regional Transmission Needs.**
582 Upon PMC determination of which submitted projects meet the requirements for
583 valid project submittals, the WestConnect Regional Planning Process will utilize the
584 planning models to determine which, if any, valid proposed projects resolve
585 identified regional transmission needs. If no valid projects have been proposed to
586 meet an identified regional transmission need, the PMC will develop an appropriate
587 project, which will not be eligible for Cost Allocation. The PMC will then conduct
588 its own process to determine if any projects are more efficient or cost-effective or if
589 there is a regional need that is not addressed.

590 **7.6. Identification of Beneficiaries and Cost Allocation.** The WestConnect
591 Regional Planning Process will evaluate valid project submittals that seek allocation
592 of costs to determine if they meet Cost Allocation eligibility requirements. A valid
593 project seeking Cost Allocation that is deemed eligible for Cost Allocation by the
594 PMC must demonstrate known and measurable reliability, economic and/or enacted
595 public policy benefits at or above applicable benefit/cost ratios. On or before the end

596 of the 7th quarter of the WestConnect Regional Planning Process, the Cost Allocation
597 Subcommittee is to submit, for review and comment, the results of its project
598 benefit/cost analysis and beneficiary determination to the PMC Chair and to the
599 identified beneficiaries of the transmission projects proposed for Cost Allocation.
600 The PMC shall make available to its Members sufficient information to allow for a
601 reasonable opportunity to comment on the proposed selection. The PMC shall not
602 make a determination on the project benefit/cost analysis and beneficiary
603 determination until it has reviewed all comments. Upon approval of the PMC, the
604 project benefit/cost analysis and beneficiary identifications shall be posted by the
605 PMC on the WestConnect website.

606 **7.6.1.** Each CTO beneficiary will indicate whether it accepts the cost
607 allocation for the project, as follows:

608 **7.6.1.1.** A CTO Member, in its sole discretion, may elect to accept a Cost
609 Allocation for each separate regional transmission facility for which it is
610 identified as a beneficiary, but only if it notifies the Chair of the PMC in
611 writing of its decision to accept any such Cost Allocation within sixty (60)
612 calendar days after the project benefit/cost analysis and beneficiary
613 identifications are posted by the PMC under this Section 7.6; provided,
614 however, that the PMC has the discretion to extend the 60-day period when
615 additional time is necessary for an identified beneficiary to complete its
616 internal review and deliberation process before deciding to accept Cost
617 Allocation.

618 **7.6.1.2.** A CTO Member giving notice that it elects to accept a Cost
619 Allocation for a regional transmission facility may rescind that notice at any

620 time prior to the end of the sixty (60) day period, or such extended period
621 established pursuant to this Section 7.6.

622 **7.6.1.3.** A CTO Member that does not accept a cost allocation for a regional
623 transmission facility will not be subject to Cost Allocation for that
624 transmission facility.

625 **7.6.2.** Recalculation of Benefits and Costs for Reliability Projects. The
626 Cost Allocation Subcommittee will adjust, as necessary, its project benefit/cost
627 analysis and beneficiary identification for any transmission project that continues
628 to meet the region's criteria for regional Cost Allocation. For any CTO
629 beneficiary that does not accept Cost Allocation for a regional transmission
630 project under this Section 7.6, such CTO's transmission need(s) which was
631 included within the identification of the region's transmission needs (for which
632 the regional project would have avoided an alternative reliability project in such
633 CTO's local transmission plan) will be removed as a regional transmission need
634 for purposes of justifying a project's approval as a project eligible for inclusion in
635 the regional plan for purposes of cost allocation.

636 **7.6.3.** Recalculation of Benefits and Costs for Public Policy Requirements
637 Projects. The Cost Allocation Subcommittee will adjust, as necessary, its project
638 benefit/cost analysis and beneficiary identification for any transmission project
639 that continues to meet the region's criteria for regional Cost Allocation. For any
640 CTO beneficiary that does not accept Cost Allocation for a regional transmission
641 project under this Section 7.6, such CTO's transmission need(s) which was
642 included within the identification of the region's transmission needs (for which
643 the regional project would have avoided an alternative Public Policy

644 Requirements project in such CTO's local transmission plan) will be removed as
645 a regional transmission need for purposes of justifying a project's approval as a
646 project eligible for inclusion in the regional plan for purposes of cost allocation.
647 This shall include any such CTO's resource needs necessary to comply with
648 Public Policy Requirements.

649 **7.6.4.** Recalculation of Benefits and Costs for Economic Projects. The
650 Cost Allocation Subcommittee will adjust, as necessary, its project benefit/cost
651 analysis and beneficiary identification for any transmission project that continues
652 to meet the region's criteria for regional Cost Allocation. For any CTO
653 beneficiary that does not accept Cost Allocation for a regional transmission
654 project under this Section 7.6, such CTO's transmission benefits which were
655 included within the identification of the regional project's economic benefits will
656 be removed as a regional transmission benefit for purposes of justifying a
657 project's approval as a project eligible for inclusion in the regional plan for
658 purposes of cost allocation. This shall include the value of any economic benefits
659 determined through the Regional Transmission Plan to accrue to such CTO.

660 **7.6.5.** Resultant Increase in Beneficiary Cost Allocation. Any regional
661 transmission project that continues to meet the region's benefit/cost and other
662 criteria for regional Cost Allocation will remain eligible for selection in the
663 Regional Plan for purposes of Cost Allocation.

664 **7.7. Development of the Regional Transmission Plan.** Upon completion of a
665 proposed WestConnect regional plan based upon the analysis and identification of
666 alternatives to meet regional transmission needs described in Sections 7.1 through
667 7.6, including receipt and review of stakeholder questions, comments and input, the

668 PMC will vote on whether to accept the proposed plan. The PMC will include in the
669 approved Regional Transmission Plan documentation of the reasons for inclusion or
670 exclusion of proposed transmission projects and non-transmission alternatives in the
671 plan.

672 **7.8. Developer Selection Process.** After the plan is complete, the PMC will
673 select a developer that has the right to use the regional Cost Allocation method for
674 each project included in the Regional Transmission Plan for purposes of Cost
675 Allocation.

676 **8. GOVERNANCE OF WESTCONNECT REGIONAL PLANNING PROCESS**

677 **8.1. Planning Management Committee (“PMC”).** The WestConnect
678 Regional Planning Process shall be managed and governed by the PMC. Each
679 Member shall appoint one person to represent the Member on the PMC. Each
680 Member representative shall serve on the PMC at the pleasure of the Member that
681 appointed the representative and may be removed or replaced by such Member at any
682 time. If a Member’s designated representative is unable to attend or participate in a
683 PMC meeting in person or by teleconference or video conference, the Member
684 representative may designate an alternate person to represent the Member in the
685 meeting. However, no Member may cast more than one vote on matters before the
686 PMC. Each Member shall be responsible for ensuring its PMC representatives have
687 executed all agreements necessary for participation in the WestConnect Regional
688 Planning Process.

689 **8.1.1. Meetings of the PMC and Subordinate Committees.** Meetings of the
690 PMC and any subordinate committees shall be called as follows:
691

692 **8.1.1.1. Frequency.** The PMC shall meet every two months, or more
693 frequently as needed. Subordinate committees shall meet as necessary.

694 **8.1.1.2. Notice.** Except as provided for in Sections 8.1.1.3 and 8.1.1.4, the
695 chair of the PMC or a subcommittee shall cause a notice of meetings of the
696 PMC or any subordinate committees to be posted on the WestConnect
697 website and via email to all Members at least fourteen (14) days in advance of
698 the meeting.

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

706 **8.1.1.4. Special Considerations for Legal Subcommittee Meetings.**
707 Notwithstanding the provisions of Sections 8.1.1.2 and 8.1.1.3 above,
708 meetings of the Legal Subcommittee shall be non-public and limited only to
709 Members. Except as set forth below, notice of Legal Subcommittee meetings
710 shall be provided in accordance with Sections 8.1.1.2 and 8.1.1.3.

711 Notwithstanding the immediately preceding sentence, Legal Subcommittee
712 meetings may be required from time to time on short notice to, among other
713 things, timely respond to deadlines imposed pursuant to administrative and/or
714 court orders, and/or any other rules of procedure of the applicable
715 Governmental Authority, and/or to otherwise respond to time-sensitive legal

716 matters (collectively, “Time-Sensitive Legal Matters”). In the event of Time-
717 Sensitive Legal Matters, the chair of the Legal Subcommittee shall cause the
718 notice of a Legal Subcommittee meeting to be posted on the WestConnect
719 website and provided via email to all Members as soon as reasonably
720 practicable prior to the meeting if such meeting cannot take place in
721 accordance with the notice provisions set forth in Sections 8.1.1.2 and 8.1.1.3
722 above, but no less than two (2) business days’ prior notice.

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

738 **8.3. PMC Responsibilities.** The PMC is responsible for the management of the
739 WestConnect Regional Planning Process pursuant to this Agreement. The PMC may

740 delegate activities to the planning management project manager or others as it sees
741 fit. However, the PMC retains ultimate authority for the responsibilities listed below:

742 **8.3.1.** Develop and approve the Regional Transmission Plan that includes
743 application of the Cost Allocation methodology for the WestConnect Planning
744 Region.

745 **8.3.2.** Develop and approve an annual budget for the WestConnect Regional
746 Planning Process activities and functions.

747 **8.3.3.** Develop and approve an annual scope of work, work plan and periodic
748 reporting for WestConnect Regional Planning Process activities and functions,
749 including holding a minimum of two stakeholder informational meetings per
750 year.

751 **8.3.4.** Employ an independent contractor to perform WestConnect planning
752 management project manager services.

753 **8.3.5.** Direct, delegate and otherwise assign administrative responsibilities to
754 the planning management project manager.

755 **8.3.6.** Arrange for the purchase and performance of goods and services,
756 including consulting services, necessary or appropriate for conduct of the
757 WestConnect Regional Planning Process.

758 **8.3.7.** Biennially elect a PMC Chair and a Vice Chair.

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

764 the Cost Allocation Subcommittee must be a representative of an ETO Member.
765 A subcommittee chair may serve no more than two consecutive two-year
766 appointments, unless the PMC directs otherwise.

767 **8.3.9.** Appoint and dissolve permanent or ad hoc work groups and
768 subcommittees as appropriate to carry out the WestConnect Regional Planning
769 Process.

770 **8.3.10.** Approve the purposes and responsibilities, and revisions thereto, of work
771 groups and subcommittees established pursuant to Section 8.3.9, including
772 reporting responsibilities.

773 **8.3.11.** Approve the initial BPM and thereafter approve subsequent BPM
774 revisions in accordance with the procedures set forth in the BPM.

775 **8.3.12.** Determine whether an entity signing this Agreement is eligible for the
776 Member Sector it elects to join.

777 **8.3.13.** Select a website contractor and approve website changes related to the
778 WestConnect Regional Planning Process.

779 **8.3.14.** Act on recommendations or other matters referred to it by its
780 subcommittees and ad hoc work groups.

781 **8.3.15.** Determine a Member's Active Member or Inactive Member status as
782 provided herein.

783 **8.3.16.** Determine and approve expenses and fees for study work for projects
784 submitted for evaluation as part of the WestConnect Regional Planning Process.

785 **8.3.17.** Develop and approve processes to invite stakeholder involvement in
786 PMC, subcommittee and work group meetings and opportunities for comment on
787 the WestConnect Regional Planning Process.

788 **8.3.18.** Coordinate with neighboring planning regions and stakeholders to
789 develop and implement processes for interregional transmission planning
790 coordination.

791 **8.3.19.** Appoint a Finance Agent and audit the Finance Agent at the discretion of
792 the PMC no less often than every three years.

793 **8.3.20.** Take other actions as necessary to effectuate the WestConnect Regional
794 Planning Process.

795 **8.3.21.** Designate individuals to represent the PMC in industry forums.

796 **8.3.22.** Qualify and designate developers of transmission projects eligible for
797 Cost Allocation.

798 **8.4. Subcommittees.** The Planning Subcommittee, the Cost Allocation
799 Subcommittee and the Legal Subcommittee shall be standing subcommittees of the
800 PMC. Pursuant to Section 8.3.9 herein, the PMC may establish and retire other
801 subcommittees from time to time. The PMC shall specify the purposes and
802 responsibilities of a proposed new subcommittee in the PMC approval item for the
803 formation of the subcommittee. Chairs of the Planning Subcommittee, the Cost
804 Allocation Subcommittee and the Legal Subcommittee shall be appointed by the
805 PMC pursuant to Section 8.3.8 herein. Each Member shall appoint a representative
806 to the Planning Subcommittee and to the Cost Allocation Subcommittee.

807 Appointment of a representative to other subcommittees that may be established by
808 the PMC shall be at each Member's discretion, unless the PMC directs otherwise.

809 The Legal Subcommittee will consist of two representatives per Member Sector
810 who will be appointed by each of the Member Sectors. The Legal Subcommittee
811 representatives from each Member Sector will be attorneys, however, the Legal

812 Subcommittee representatives are to seek the input, as necessary and appropriate,
813 of business/engineering staff of PMC Members. Notwithstanding anything to the
814 contrary set forth in this Section 8.4, Member representatives appointed to the Legal
815 Subcommittee will be appointed in accordance with the provisions of Section 10.1,
816 below. Each Member representative shall serve on the subcommittee at the pleasure
817 of the Member, or Member Sector in the case of the Legal Subcommittee, that
818 appointed the representative and may be removed or replaced by such Member or
819 Member Sector, as applicable, at any time. If a Member's or Member Sector's
820 designated representative, as applicable, is unable to attend or participate in a
821 subcommittee meeting in person or by teleconference or video conference, the
822 Member or Member Sector representative, as applicable, may designate an alternate
823 person to represent the Member or Member Sector, as applicable, in the meeting.

824 **8.4.1. Planning Subcommittee.** Responsibilities of the Planning
825 Subcommittee are to:

826 **8.4.1.1.** Establish base cases for the WestConnect Regional Planning Process.

827 **8.4.1.2.** Coordinate studies between the PFWG and EPWG.

828 **8.4.1.3.** Produce the Regional Transmission Plan and recommend such plan
829 to the PMC for approval. The subcommittee will consider projects from the
830 PFWG and EPWG that are recommended for inclusion in the plan.

831 **8.4.1.4.** Provide public notice of the Planning Subcommittee meetings, and
832 provide opportunities for stakeholders to provide comments on the process
833 and proposed plan.

834 **8.4.1.5.** Perform such other functions and duties as may be assigned to it by
835 the PMC.

836 **8.4.2. Cost Allocation Subcommittee.** Nothing in this Agreement will pre-
837 determine Cost Allocation for projects or how costs allocated for projects will be
838 recovered. Subject to that limitation, responsibilities of the Cost Allocation
839 Subcommittee are as follows:

840 **8.4.2.1.** Perform or oversee the performance of the Cost Allocation
841 methodology under the WestConnect Regional Planning Process.

842 **8.4.2.2.** Review and make recommendations to the PMC regarding the
843 qualifications for projects recommended for selection for purposes of Cost
844 Allocation for inclusion in the Regional Transmission Plan.

845 **8.4.2.3.** Make recommendations to the PMC on modification of the Cost
846 Allocation methodology as necessary to meet required prongs of the Cost
847 Allocation concept, including Order No. 1000 “beneficiary pays” and
848 minimum cost-benefit ratios principles.

849 **8.4.2.4.** Make recommendations to the PMC on modification of the definition
850 of benefits as necessary to meet the required prongs of the Cost Allocation
851 methodology.

852 **8.4.2.5.** Provide public notice of Cost Allocation Subcommittee meetings in
853 accordance with Section 8.1.1.2, and provide opportunities for stakeholders to
854 provide comments on the process and proposed cost allocation.

855 **8.4.2.6.** Manage the developer selection process for projects included in the
856 regional plan for purposes of Cost Allocation.

857 **8.4.2.7.** Perform such other functions and duties as may be assigned to it by
858 the PMC.

859 **8.4.3. Legal Subcommittee.** Responsibilities of the Legal

860 Subcommittee are to:

861 **8.4.3.1.** Review, assess and agree upon a recommendation to be made to
862 the PMC of a proposed solution to any formal or informal dispute arising
863 under this Agreement from or in connection with a decision or action or a
864 failure to decide or act of or by the PMC, or any subcommittee or
865 subgroup thereof, or otherwise in connection with the WestConnect
866 Regional Planning Process.

867 **8.4.3.2.** Propose recommendations to the PMC to address and seek
868 resolution of any disputes arising under this Agreement, including,
869 without limitation, disputes among or between PMC Members, Member
870 Sectors, Member(s) and/or a third party that is not a Member under this
871 Agreement.

872 **8.4.3.3.** Provide recommendations to the PMC on legal strategy in defending
873 and/or resolving disputes, including, but not limited to, the selection and
874 retainer of outside legal counsel, if and when necessary, and whether and/or
875 when to pursue alternative dispute resolution, litigation or settlement.

876 **8.4.3.4.** Provide public notice of the Legal Subcommittee meetings in
877 accordance with Sections 8.1.1.2, 8.1.1.3 and 8.1.1.4, as applicable.

878 **8.4.3.5.** Perform such other functions and duties as may be assigned to it by
879 the PMC.

880 **8.5. Procedures for Decisions**

881 **8.5.1. PMC Approvals.** PMC voting will be conducted by Member
882 Sectors. Except as set forth below in Section 8.5.4 of this Agreement, each

883 Member is entitled to one (1) vote within its Sector. A PMC Member
884 representative must be present at a meeting, in person, by video conference, or by
885 teleconference, in order to vote. Except as set forth below in Section 8.5.4 of this
886 Agreement, each PMC Member, through its PMC Member representative, may
887 cast only one vote. Unless otherwise stated in the Agreement, approval of a
888 matter brought to a vote before the PMC requires either:

889 **8.5.1.1.** Approval by 75% of the Member representatives present within each
890 of at least three Member Sectors, where one of the three Member Sectors
891 approving is the TOLSO Member Sector; or

892 **8.5.1.2.** Approval by 75% of the Member representatives present within each
893 of the four Member Sectors other than the TOLSO Member Sector plus
894 approval by two-thirds (2/3's) of the Member representatives of the TOLSO
895 Member Sector.

896 **8.5.1.3.** In situations where two or more Member Sectors are vacant, the
897 PMC will apply the 75% voting thresholds in Sections 8.5.1.1 and 8.5.1.2
898 based upon 75% of the total number of Member representatives present (as
899 opposed to 75% of Member representatives within individual Sectors), as
900 follows: approval by 75% of the total Member representatives present,
901 including at least 75% of the Member representatives of the TOLSO Member
902 Sector.

903 **8.5.2. Subcommittee Approvals.**

904 **8.5.2.1.** Subcommittees, including the Planning Subcommittee, the Cost
905 Allocation Subcommittee and the Legal Subcommittee, shall make decisions
906 by consensus of the Member or Member Sector representatives, as applicable.

907 Consensus means that all Member or Member Sector representatives, as
908 applicable, unanimously accept a decision under consideration by the
909 subcommittee. Subcommittees will conduct straw polls to indicate positions
910 on issues in order to determine if the subcommittee has reached a consensus
911 decision. Only Member representatives or Member Sector representatives, as
912 applicable, present at a meeting in person, by videoconference or by
913 teleconference are entitled to vote in a straw poll. If a subcommittee is unable
914 to reach a consensus decision on an issue or proposal, the subcommittee shall
915 document the positions (including minority opinions) held by the Member or
916 Member Sector representatives, as applicable, and refer the positions to the
917 PMC for resolution. Recommendations reached by consensus shall be
918 provided to the PMC Chair and Vice Chair. The PMC Chair shall provide
919 advance written notice to the PMC Member representatives of any such
920 recommendations and the PMC shall vote upon any such recommendations in
921 accordance with the provisions of Section 8.5.1.

922 **8.5.2.2.** Member representatives or Member Sector representatives, as
923 applicable, of a subcommittee who are not present in person, by
924 videoconference or by teleconference at a subcommittee meeting where a
925 consensus decision was reached may provide written comments in support of
926 the consensus decision. If a Member representative or Member Sector
927 representative that was not present for a meeting in which a consensus
928 decision was reached does not agree with the consensus decision, that
929 Member representative or Member Sector representative may provide written

930 comments that explain the Member or Member Sector representative's
931 position for submittal to the PMC.

932 **8.5.3. No Waiver of State Regulatory Commission or other Members'**
933 **Decision-Making Authority.** Action by an SRC Member representative
934 participating in any part of the WestConnect Regional Planning Process shall not
935 bind any SRC Member representative or any State Regulatory Commission to
936 any particular course of action in state regulatory proceedings, or other
937 proceedings of any kind outside the WestConnect Regional Planning Process
938 forum. Similarly, no other Member shall, by virtue of its respective participation
939 in any activities under this Agreement, be bound to any particular course of
940 action in any legal or regulatory proceedings (whether local, state or federal, or
941 other proceedings of any kind) outside the scope of this Agreement.

942 **8.5.4. Affiliated Members.** In situations where two or more Members are affiliates
943 of each other, for purposes of voting under this Agreement, each Member is entitled to vote
944 in its own Sector, subject to the following conditions:

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

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

956 **9. CONFIDENTIAL INFORMATION**

957 Any items or information determined to be of a confidential nature, including access
958 to such items, will be governed by a separate non-disclosure agreement. Any
959 Member's failure to execute the non-disclosure agreement may restrict that
960 Member's access to such information.

961 **10. DISPUTE RESOLUTION**

962 **10.1. Disputes Between Members.**

963 **10.1.1.** When any Member has a dispute with another Member with respect
964 to the provisions of this Agreement (that is, a dispute within the scope of this
965 Agreement, but one that does not involve a PMC Decision), that Member
966 shall send a Written Notice of Dispute to the Legal Subcommittee Chair. For
967 purposes of this Section 10, a dispute that involves a PMC Decision is any
968 matter upon which the PMC voted pursuant to Section 8.5, and a dispute
969 within the scope of this Agreement is any matter involving the PMC's
970 management of the WestConnect Regional Planning Process pursuant to this
971 Agreement, including its Section 8.3 responsibilities. Such notice must set
972 forth in adequate detail the nature of the dispute and the solution sought. The
973 Legal Subcommittee Chair, or his/her designee, will provide written notice to
974 the PMC Member representatives that a dispute exists within fifteen (15)
975 business days of the Legal Subcommittee Chair's receipt of written notice
976 that such a dispute exists.

977 **10.1.2.** For purposes of this Section 10.1, those Members directly or
978 indirectly involved on either side of any such dispute are referred to
979 individually as a “Disputing Member” and collectively, as the “Disputing
980 Members.”

981 **10.1.3.** To facilitate the completion of the Regional Transmission Plan in
982 accordance with the WestConnect Regional Planning Process, disputes over
983 any matter shall be raised timely.

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

1000 does not act within sixty (60) calendar days, it may invoke the provisions in
1001 Section 10.2 governing disputes between a Member and the PMC.

1002 **10.1.5.** The dispute resolution process in this Section 10.1 is without
1003 prejudice to a Disputing Member's rights under Section 206 of the Federal
1004 Power Act to file a complaint with the FERC at any time or pursue resolution
1005 of its dispute at any time in any legal forum with jurisdiction to hear it;
1006 provided, however, that no Member waives its rights to contest that such legal
1007 forum lacks jurisdiction or is not the appropriate venue. Further, nothing in
1008 this Section 10 is intended to prevent the executive management of the
1009 Disputing Members from becoming involved at an earlier period of the
1010 dispute, including but not limited to the outset of such dispute(s).
1011 Moreover nothing in this Section 10 limits any other informal
1012 communications and other attempts to resolve a dispute at the earliest
1013 possible time.

1014 **10.2. Disputes Between a Member(s) and the PMC.**

1015 **10.2.1.** A Member with a dispute against the PMC, where the dispute arises
1016 from a PMC Decision or otherwise within the scope of this Agreement, that
1017 Member shall send a Written Notice of Dispute to the Legal Subcommittee Chair.
1018 Such notice must set forth in adequate detail the nature of the dispute and the
1019 solution sought. The Legal Subcommittee Chair, or his/her designee, will
1020 provide written notice to the PMC Member representatives that a dispute exists
1021 within fifteen (15) business days of the Legal Subcommittee Chair's receipt of
1022 written notice that such a dispute exists. Upon receipt of a Written Notice of

1023 Dispute, the Legal Subcommittee shall perform the responsibilities set forth in
1024 Section 8.4.3.

1025 If the dispute is not resolved informally, the Legal Subcommittee shall submit the
1026 dispute to the PMC for resolution, and decisions made by the PMC shall be made
1027 in accordance with the voting structure described in Section 8.5. If a Disputing
1028 Member is not satisfied with the PMC's resolution, it may pursue resolution of its
1029 dispute in any legal forum with jurisdiction to hear it; provided, however, that no
1030 Member waives its rights to contest that such legal forum lacks jurisdiction or is
1031 not the appropriate venue. Notwithstanding the foregoing, and to the fullest
1032 extent permitted by law, Members may agree to irrevocably waive any and all
1033 rights to a trial by jury, and may agree not to request a trial by jury, with respect
1034 to a legal proceeding arising out of, under, or in connection with a PMC Decision
1035 or otherwise within the scope of this Agreement. This waiver of right to trial by
1036 jury, however, shall not apply to the extent that the U.S. Department of Justice, as
1037 a Federal Member's legal representative in any legal proceeding arising out of,
1038 under, or in connection with a PMC Decision or otherwise within the scope of
1039 this Agreement wishes to pursue a trial by jury in any such legal proceeding. In
1040 addition, any Disputing Member(s) may call for submission of the dispute to
1041 binding arbitration upon unanimous consent of all PMC Members. In the event
1042 all PMC Members unanimously agree to submit the dispute to binding arbitration,
1043 the procedures set forth in Attachment A shall apply. To the extent that FERC
1044 has jurisdiction over the dispute, the Disputing Member(s) retains its rights to file
1045 a complaint under the relevant provisions of the Federal Power Act, and such
1046 Disputing Member(s) is not required to complete the dispute resolution process in

1047 this Section 10.2 before filing such a complaint. Nothing in this Agreement shall
1048 be deemed to waive, limit or impair in any degree the exemption of any Non-
1049 Public Utility Member from FERC’s jurisdiction under the Federal Power Act or
1050 to submit any Non-Public Utility Member to the jurisdiction of FERC. For
1051 purposes of Section 10.2, those Member(s) adverse to the PMC are referred to
1052 individually as a “Disputing Member” and collectively, as the “Disputing
1053 Members.”

1054 **10.2.2. Expenses Incurred to Defend and/or Resolve Disputes.** Any and
1055 all necessary expenses that may be incurred by the PMC in defending the PMC or
1056 any of its Member(s) against a Disputing Member’s adverse claim arising from a
1057 PMC Decision or otherwise within the scope of this Agreement (e.g., in defense
1058 of PMC actions or inactions), and in resolving any such claim or dispute, whether
1059 through a formal or informal proceeding, including, without limitation, any
1060 expenses related to the arbitration or the settlement of the dispute,² will be shared
1061 among the Member Sectors, and among the Members within each Member
1062 Sector, as follows: The TOLSO Member Sector will be responsible for 66
1063 percent of legal defense expenses, and all other Member Sectors, except the SRC
1064 Member Sector, will be responsible for the remaining 34 percent of such
1065 expenses. For the 66 percent of expenses assigned to the TOLSO Member
1066 Sector, the expenses will be shared pro rata among the Members in the Sector,
1067 based upon the number of Members in the Sector. For the 34 percent of expenses

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

1068 assigned to the ITDO, TC and KIG Member Sectors, the expenses will be shared
1069 among the Sectors equally, and then within each Sector, the expenses will be
1070 divided pro rata among the Members of that Sector, based upon the number of
1071 Members in the Sector.

1072 **10.2.3.** The obligations set forth in this Section 10.2 shall apply only to the
1073 extent that the dispute arises from a PMC Decision or otherwise within the scope
1074 of this Agreement and shall not impose an obligation upon any Member to
1075 cooperate and defend or pay for any expenses related to disputes that do not arise
1076 from a PMC Decision or otherwise within the scope of this Agreement. The
1077 PMC has discretion to deviate from the percentage split of legal defense costs
1078 shown above in situations in which a Member Sector is so sparsely populated at
1079 the time of the allocation such that the allocation would result in a substantially
1080 disproportionate and unfair burden on a single Member or Member Sector. In
1081 addition, the PMC has discretion to deviate from the pro rata sharing of legal
1082 defense costs within a Member Sector in order to exempt from the cost sharing
1083 the Disputing Member complainants. Disputing Member complainants shall bear
1084 their own legal costs in pursuit of their claims against the PMC.

1085 **10.2.4.** The provisions of this Section 10.2 shall survive the termination of
1086 this Agreement or withdrawal or expulsion of a Member, who was an active
1087 Member at the time of the initiation of a dispute.

1088 **10.3. Disputes Between the PMC and Third Parties (Non-Members).**

1089 **10.3.1. Member Cooperation.** If an individual or entity that is not a
1090 Member brings a claim in any state or federal court or administrative proceeding
1091 against the PMC or any Member(s) challenging a PMC Decision or otherwise

1092 arising within the scope of this Agreement, the dispute shall be submitted to the
1093 Legal Subcommittee for review and to provide the PMC a recommendation(s) as
1094 to its suggested course of action in accordance with the provisions of Section
1095 8.4.3. Members will support, and cooperate with, to the extent reasonably
1096 practical and allowed by law, the Member(s) named in the dispute, and/or the
1097 PMC, in defending the actions of the PMC, which cooperation may involve, as
1098 applicable, intervention or interpleading in any formal proceeding relating to the
1099 dispute and/or joint defense of the dispute, retention of outside counsel to
1100 represent a joint defense and payment of legal fees and expenses incurred as a
1101 result of such joint defense.

1102 **10.3.2. Expenses Incurred to Defend and/or Resolve Disputes with Non-**
1103 **Members.** Any and all necessary expenses that may be incurred by the PMC in
1104 defending PMC Member(s) and/or the PMC as a whole against any adverse claim
1105 arising from a PMC Decision or otherwise arising within the scope of this
1106 Agreement, and in resolving any such claim or dispute, whether through a formal
1107 or informal proceeding, including, without limitation, any expenses related to the
1108 arbitration or the settlement of the dispute,³ will be shared among the Member
1109 Sectors, as follows: The TOLSO Member Sector will be responsible for 66
1110 percent of legal defense expenses, and all other Member Sectors, except the SRC
1111 Member Sector, will be responsible for the remaining 34 percent of such
1112 expenses. For the 66 percent of expenses assigned to the TOLSO Member

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

1113 Sector, the expenses will be shared pro rata among the Members in the sector,
1114 based upon the number of Members in the Sector. For the 34 percent of expenses
1115 assigned to the ITDO, TC and KIG Member Sectors, the expenses will be shared
1116 among the sectors pro rata, and then within each sector, the expenses will be
1117 divided pro rata among the Members of that sector, based upon the number of
1118 Members in the Sector.

1119 The obligations set forth in this Section 10.3 shall apply only to the extent that the
1120 dispute arises from a PMC Decision or otherwise within the scope of this
1121 Agreement and shall not impose an obligation upon any Member to cooperate
1122 and defend or pay for any expenses related to disputes that do not arise from a
1123 PMC Decision or otherwise within the scope of this Agreement. The PMC has
1124 discretion to deviate from the percentage split of legal defense costs shown above
1125 in situations in which a Member Sector is so sparsely populated at the time of the
1126 allocation such that the allocation would result in a substantially disproportionate
1127 and unfair burden on a single Member or Member Sector.

1128 **10.3.3.** The provisions of this Section 10.3 shall survive the termination of
1129 this Agreement or withdrawal or expulsion of a Member, who was an active
1130 Member at the time of the initiation of a dispute.

1131 **10.4. General Availability of Rights Granted in the Federal Power Act.** The
1132 dispute resolution process in this Section 10 is without prejudice to a Disputing
1133 Member's rights under Section 206 of the Federal Power Act to file a complaint with
1134 the FERC at any time.

1135 **10.5 Alleged Violations of Individual OATTs By Individual Members.**

1136 Allegations that any TOLSO Member violated its individual OATT in a manner other

1137 than pursuant to a PMC Decision or otherwise under this Agreement, shall be
1138 handled in accordance with the dispute resolution procedures in the applicable
1139 individual TOLSO Member's OATT or, if applicable, in some other manner as
1140 appropriate, and will not impact or concern the other Members.

1141 **11. LIMITATION OF LIABILITY; DAMAGES**

1142 **11.1.** This Agreement creates contractual rights and obligations solely between
1143 and among the Members. As between and among Members, specific performance
1144 shall be the sole remedy available to the PMC or any of its Members, and the PMC
1145 and its Members shall not be liable for monetary damages of any kind whatsoever,
1146 whether direct, compensatory, special, indirect, consequential, or punitive. In
1147 addition, nothing in this Agreement shall create any duty, liability, or standard of care
1148 whatsoever as to any third party. No third party shall have any rights whatsoever
1149 with respect to enforcement of any provision of this Agreement, and no monetary
1150 damages of any kind whatsoever, whether direct, compensatory, special, indirect,
1151 consequential, or punitive shall be available or awarded to any third party.

1152 **11.2.** In the event that, notwithstanding the fact that third parties lack any rights
1153 whatsoever under this Agreement, damages stemming from PMC or PMC-Member
1154 conduct arising under this Agreement are awarded to a third-party plaintiff by a court
1155 of competent jurisdiction, or other adjudicatory body, no Member is obligated to pay
1156 the legal liability adjudicated against another Member. There is no joint liability
1157 under this Agreement and each PMC Member is an individual obligor, liable for only
1158 its portion of the relevant obligation. This Agreement does not impose upon any
1159 Member the obligation to indemnify any other Member, and no Member is liable for

1160 another Member's own acts or omissions or conduct in performing its obligations
1161 under this Agreement.

1162 **12. MISCELLANEOUS**

1163 **12.1. Entire Agreement.** This Agreement constitutes and expresses the entire
1164 understanding among the Members with respect to the subject matter hereof, and
1165 supersedes all prior agreements and understandings, inducements, commitments or
1166 conditions, express or implied, oral or written.

1167 **12.2. Appendices and Exhibits.** The Appendices and Exhibits hereto together
1168 with all attachments referenced therein, are incorporated herein by reference and
1169 made a part of this Agreement.

1170 **12.3. Notices.** All notices, consents, waivers and other communications required
1171 or permitted by this Agreement to be given to another Member or to a Committee or
1172 Sub-Committee or designated recipient of the PMC will be in writing and will be
1173 deemed to have been given when (a) delivered to the other Member's business
1174 address personally, by messenger, by a nationally or internationally recognized
1175 overnight delivery service or otherwise, (b) sent to the other Member by facsimile, e-
1176 mail or other electronic transmission, with confirmation of transmission by the
1177 transmitting equipment; or (c) received or rejected by the other Member, if sent by
1178 certified mail, return receipt requested, in each case, addressed to the other Member
1179 at its business address, facsimile number or email address identified on the signature
1180 pages of this Agreement.

1181 **12.4. Amendments.** Neither this Agreement nor any provision hereof may be
1182 amended or modified other than by action of the PMC under the voting procedures
1183 set forth in this Agreement. This Agreement may be modified by an affirmative vote

1184 of the PMC pursuant to the provisions of Section 8.5 of this Agreement provided that
1185 the proposed modification has been presented for discussion at two consecutive PMC
1186 meetings prior to conducting the vote. At such time that a modification has been
1187 approved by the PMC, all Members will make reasonable efforts to execute the
1188 agreement as soon as possible, with all executions due within ninety (90) days of
1189 PMC approval of such modification; provided, however, that if a Member notifies
1190 the PMC Chair that it is withdrawing its participation in this Agreement pursuant to
1191 Section 5.6.1 or 5.6.8, such Member shall be under no obligation to execute the
1192 modified agreement. The effective date of modifications to the Agreement will be
1193 established so as to align with planning process budget cycles unless the urgency of
1194 the modification dictates otherwise. No individual Member may be bound by a
1195 modified version of this Agreement prior to having executed it.

1196 **12.5. Consistency with Laws and Regulations.** Nothing in this Agreement shall
1197 compel any Member to (i) violate federal, state or local statutes or regulations, tariffs,
1198 orders or other legal obligations; or (ii) in the case of a Governmental Authority or
1199 instrumentality, to exceed its statutory authority, as defined by any applicable
1200 statutes, regulations, or orders lawfully promulgated thereunder. If any provision of
1201 this Agreement is contrary to any obligation imposed on any Member by federal,
1202 state, or local law or regulation, to that extent it shall be inapplicable to that Member.
1203 No Member shall incur any liability by failing to comply with a provision of this
1204 Agreement that is inapplicable to it by reason of being contrary to any statutes,
1205 regulations or orders lawfully promulgated thereunder; provided, however, that such
1206 Member shall comply with the Agreement to the extent that applicable laws,
1207 regulations and orders lawfully promulgated thereunder permit it to do so.

1208 **12.6. Severability of Provisions.** The provisions of this Agreement are
1209 independent of and separable from each other. If any provision of this Agreement
1210 shall for any reason be held invalid or unenforceable, such invalidity or
1211 unenforceability shall not affect the validity or enforceability of any other provision
1212 hereof, but this Agreement shall be construed as if such invalid or unenforceable
1213 provision had never been contained herein.

1214 **12.7. Assignments and Successors.** No Member may assign any of its rights or
1215 delegate any of its duties or obligations under this Agreement, except that any
1216 Member may, without the consent of the other Members, assign its rights and
1217 delegate its duties and obligations under this Agreement to a successor to which all or
1218 substantially all of the assets of such Member shall be transferred or to an affiliate of
1219 the assigning Member for the purposes of a corporate restructuring, provided,
1220 however, that in each such case, the successor or affiliate is eligible for membership
1221 in the same Member Sector as the assignor under the governing membership criteria
1222 for that Member Sector and has executed this Agreement, and, if required, made all
1223 necessary filings in connection with any applicable regulatory approvals. Subject to
1224 the preceding sentence, this Agreement will apply to, be binding in all respects upon,
1225 and inure to the benefit of, the successors and permitted assigns of the Members.

1226 **12.8. Rules of Interpretation.** This Agreement, unless a clear contrary intention
1227 appears, shall be construed and interpreted as follows: (1) the singular number
1228 includes the plural number and vice versa; (2) reference to any person includes such
1229 person's successors and assigns but, in the case of a Member, only if such successors
1230 and assigns are permitted by this Agreement, and reference to a person in a particular
1231 capacity excludes such person in any other capacity or individually; (3) reference to

1232 any agreement (including this Agreement), document, instrument or tariff means
1233 such agreement, document, instrument, or tariff as amended or modified and in effect
1234 from time to time in accordance with the terms thereof and, if applicable, the terms
1235 hereof; (4) reference to any applicable laws and regulations means such applicable
1236 laws and regulations as amended, modified, codified, or reenacted, in whole or in
1237 part, and in effect from time to time, including, if applicable, rules and regulations
1238 promulgated thereunder; (5) unless expressly stated otherwise, reference to any
1239 Article, Section or Appendix means such Article, Section or Appendix to this
1240 Agreement; (6) "including" (and with correlative meaning "include") means
1241 including without limiting the generality of any description preceding such term; and
1242 (8) relative to the determination of any period of time, "from" means "from and
1243 including", "to" means "to but excluding" and "through" means "through and
1244 including".

1245 **12.9. Headings.** The descriptive headings of the various articles, sections, or
1246 appendices of this Agreement have been inserted for convenience of reference only
1247 and are of no significance in the interpretation or construction of this Agreement.

1248 **12.10. No Association, Joint Venture, Agency or Partnership.** This Agreement
1249 shall not be interpreted or construed to create an association, joint venture, agency
1250 relationship or partnership among the Members or to impose any partnership
1251 obligations or partnership liability upon any Member. The duties and obligations of
1252 the Members are several and not joint. Notwithstanding anything to the contrary in
1253 this Agreement, this Agreement shall at all times be conditioned upon the Members
1254 obtaining all regulatory approvals from the appropriate federal, state, and/or local
1255 regulatory authorities or agencies that each Member determines, in its sole discretion,

1256 to be required to enter into, to perform or consummate the activities contemplated
1257 hereunder.

1258 **12.11. No Third Party Beneficiaries.** Nothing expressed or referred to in this
1259 Agreement will be construed to give any person other than the Members any legal or
1260 equitable right, remedy or claim under or with respect to this Agreement or any
1261 provision of this Agreement, except such rights as shall inure to a successor or
1262 permitted assignee pursuant to Section 12.7 (Assignments and Successors).

1263 **12.12. No Implied Waivers.** The failure of a Member to insist upon or enforce
1264 strict performance of any of the specific provisions of this Agreement at any time
1265 shall not be construed as a waiver or relinquishment to any extent of such Member's
1266 right to assert or rely upon any such provisions, rights, or remedies in that or any
1267 other instance, or as a waiver to any extent of any specific provision of this
1268 Agreement; rather the same shall be and remain in full force and effect.

1269 **12.13. Collective Effort.** Preparation of this Agreement has been a collective
1270 effort of the Members and the resulting document shall not be construed more
1271 severely against one of the Members than against the others and no provision in this
1272 Agreement is to be interpreted for or against any Member because that Member or its
1273 counsel drafted such provision. Each Member acknowledges that in executing this
1274 Agreement it has relied solely on its own judgment, belief and knowledge, and such
1275 advice as it may have received from its own counsel, and it has not been influenced
1276 by any representation or statement made by the other Members or their counsel not
1277 contained in this Agreement.

1278 **12.14. Governing Law.** This Agreement shall be governed by, and construed in
1279 accordance with, the laws of the State of Arizona, except to the extent preempted by
1280 federal law, and without regard to the State of Arizona's conflicts of law principles.

1281 **12.14.1 FERC Role in Dispute Resolution.** Disputes directly relating to the
1282 Members' compliance with their OATTs that are not resolved in the Arizona state
1283 appellate process and all disputes relating to matters that fall within the exclusive
1284 jurisdiction of FERC shall be reviewed at FERC pursuant to the Federal Power
1285 Act if such review is sought by a Member.

1286 **12.15. Conflicts.** In the event of any conflict between provisions of this
1287 Agreement and any policies, procedures, governing or guiding documents developed
1288 by the PMC and its committees and workgroups, the terms of this Agreement shall
1289 prevail. Further, the Parties acknowledge that this Agreement may be subject to
1290 filing, review, approval and subsequent modifications directed by competent
1291 authorities with jurisdiction over any one or more of the Parties. If any such
1292 modifications directed by a competent authority with jurisdiction over any one or
1293 more of the Parties conflicts with the current version of this Agreement, the Parties
1294 will seek to amend the Agreement pursuant to Section 12.4.

1295 **12.16. Authority.** This Agreement is a legal, valid and binding obligation of such
1296 Member, enforceable against such Member in accordance with its terms. By signing
1297 this Agreement, each Member signifies that it has the right, power and authority to
1298 enter into this Agreement, to become a Member hereto and to perform its obligations
1299 hereunder.

1300 **12.17. Counterparts.** This Agreement may be executed in one or more
1301 counterparts, each of which will be deemed to be an original copy of this Agreement

1302 and all of which, when taken together, will be deemed to constitute one and the same
1303 agreement. The exchange of copies of this Agreement and of signature pages by
1304 facsimile or email shall constitute effective execution and delivery of this Agreement
1305 as to the Members and may be used in lieu of the original Agreement for all purposes.
1306 Signatures of the Members transmitted by facsimile or email shall be deemed to be
1307 their original signatures for all purposes.

1308 **13. PARTICIPATION BY THE GOVERNMENT OF THE UNITED STATES**

1309 **13.1. Subject to Acts of Congress.** The performance by any Federal Member of its
1310 obligations contained in this Agreement, including but not limited to Section 10, shall
1311 be subject to applicable Federal laws and regulations, including, but not limited to,
1312 Acts of Congress approved June 17, 1902 (32 Stat. 388), December 22, 1944 (58
1313 Stat. 887), August 4, 1977 (91 Stat. 565), and Acts amendatory or supplementary to
1314 the foregoing Acts, the National Environmental Policy Act (NEPA), the Anti-
1315 Deficiency Act, 31 U.S.C. 1341, the Freedom of Information Act, the Federal Tort
1316 Claims Act, 28 U.S.C. 1346 and 2671-2680, and the Debt Collection Act, 31 U.S.C.
1317 3701 *et seq.*

1318 **13.2. Contingent Upon Appropriations.** Where activities provided for in the
1319 contract extend beyond the current fiscal year, continued expenditures by the Federal
1320 Members are contingent upon Congress making the necessary appropriations
1321 required for the continued performance of the Federal Member's obligations under
1322 the contract. In case such appropriation is not made, each other Member hereby
1323 releases the Federal Member from its contractual obligations and from all liability
1324 due to the failure of Congress to make such appropriation.

1325 **13.3. No Expansion Of Jurisdiction, Waiver Of Defenses, Liability For**
1326 **Penalties, Or Inconsistent Obligations.** By entering into this Agreement, Federal
1327 Member has not waived or conceded any defense it may have, including sovereign
1328 immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any
1329 action against it by an Enforcement Authority, nor has Federal Member accepted any
1330 liability, responsibility, or obligation to pay any civil monetary penalties or fines to
1331 which it would not have been subject in the absence of this Agreement that may be
1332 imposed by an Enforcement Authority. Enforcement Authority in this Agreement
1333 means the Federal Energy Regulatory Commission (FERC), Electric Reliability
1334 Organization (ERO), or Regional Entities with enforcement authority pursuant to a
1335 delegation from an ERO or FERC for the purpose of proposing and enforcing
1336 reliability standards.

1337
1338 **IN WITNESS WHEREOF**, the Members have executed this Agreement in duplicate
1339 originals, each of which shall constitute and be an original effective Agreement between
1340 the Members.

MEMBER SECTOR NOTIFICATION

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

MEMBER SECTOR ELECTION (check one)

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

MEMBER'S REPRESENTATIVE:

NAME _____

CONTACT INFORMATION _____

BUSINESS ADDRESS, PHONE, E-MAIL

MEMBER ALTERNATE REPRESENTATIVE

NAME _____

CONTACT INFORMATION _____

BUSINESS ADDRESS, PHONE, E-MAIL

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

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

Proposed effective date of membership: _____

Signature

Print Name

Date

ATTESTATION PURSUANT TO SECTION 6.4.2

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

Signature

Print Name

Title

Date

Attachment A

Arbitration Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT A

Signatories to the WestConnect Planning Participation Agreement

[Signature pages to be maintained by the PMC]

Name of Member Organization

| |
|--|
| |
|--|

By:

Signature

Print Name

Title

Date