

1 **WestConnect Planning Participation Agreement**
2 **Amended and Restated December 17, 2024**

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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11 exhibit shall be revised from time to time to reflect new and withdrawn parties.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 suspended the STP Agreement, to effectuate a seamless
36 transition from the STP Agreement processes into the new regional planning process
37 described herein, and formalized 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 have no authority over the PMC or the
54 PMC’s decision-making in implementing the Regional Planning Process.

55 **1.9.** On October 17, 2024 FERC directed the removal of the Coordinating
56 Transmission Owner structure that existed in the earlier version of this Agreement
57 and as a result the WestConnect Order No. 1000 regional transmission planning
58 process only plans for the needs of Enrolled Transmission Owners and may only
59 allocate costs to Enrolled Transmission Owners.

60 **2. AGREEMENT**

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

63 **3. DEFINITIONS**

64 **3.1. Business Practice Manual (“BPM”):** The document adopted and updated
65 from time to time by the PMC to describe the WestConnect Regional Planning
66 Process developed for compliance with Order No. 1000.

67 **3.2. Cost Allocation:** The identification of cost responsibility for projects
68 meeting the requirements for being selected in the Regional Transmission Plan for
69 purposes of Order No. 1000 cost allocation.

70 **3.3. Cost Allocation Subcommittee:** A standing subcommittee of the PMC.
71 The responsibilities of the Cost Allocation Subcommittee are described in Section
72 8.4.2 hereof.

73 **3.4. Enrolled Transmission Owner (“ETO”):** A Member of the ETO sector
74 as defined in Section 6.1.1.1 herein.

75 **3.5. Effective Date:** December 17, 2024.

76 **3.6. Expansion Planning Working Group (“EPWG”):** A standing working
77 group of the Planning Subcommittee that will perform benefits analyses and such
78 other functions as defined and directed by the PMC.

79 **3.7. Federal Member:** A Member entity that is an administrative agency
80 within the Executive Branch of the United States Government.

81 **3.8. FERC or Commission:** The Federal Energy Regulatory Commission or its
82 successor organization.

83 **3.9. Finance Agent:** The Member or third-party administrator selected to
84 develop and administer the budget, billing, and accounting for expenses associated
85 with this Agreement.

86 **3.10. Generator Interconnection Agreement (“GIA”):** An agreement for the
87 purpose of interconnection entered into between a Transmission Owner and a
88 Generator Owner or a generation developer. The Transmission Owner and the
89 Generator Owner may be the same legal entity in some circumstances.

90 **3.11. Generator Owner (“GO”):** An entity that owns one or more generating
91 units.

92 **3.12. Governmental Authority:** Any federal, state, municipal, local or other
93 governmental regulatory or administrative agency, court, commission, department,
94 board, or other governmental subdivision, legislature, rulemaking board, tribunal, or
95 other governmental authority having jurisdiction over a Member or Members, their
96 respective facilities, or the respective services they provide, and exercising or entitled
97 to exercise any administrative, executive, police, or taxing authority or power.

98 **3.13. Legal Subcommittee:** A standing subcommittee of the PMC. The
99 responsibilities of the Legal Subcommittee are described in Section 8.4.3 hereof.

100 **3.14. Load Serving Entity (“LSE”):** An entity that secures energy and
101 transmission service (and related interconnected operations services) to serve the
102 electrical demand and energy requirements of its end use customers.

103 **3.15. Member:** An entity that satisfies the requirements of Sections 5 and 6 of this
104 Agreement.

105 **3.16. Member Sector:** A group of Members described in Section 6 hereof.

106 **3.17. NERC:** The North American Electric Reliability Corporation or its successor
107 organization.

108 **3.18. Non-Governmental Organization (“NGO”):** An organization that has
109 received a determination of tax-exempt status from the Internal Revenue Service (a)
110 under Section 501(c)(3) of the Internal Revenue Code organized and operating
111 exclusively for one of the following purposes: religious, charitable, scientific, testing
112 for public safety, literary or educational; (b) under Section 501(c)(4) of the Internal
113 Revenue Code; or (c) under Section 501(c)(6) of the Internal Revenue Code based

114 upon a determination letter received from the Internal Revenue Service or its self-
115 certification which has been approved by the Internal Revenue Service.

116 **3.19. Non-Public Utility:** An entity that is described in Section 201(f) of the
117 Federal Power Act, 16 U.S.C. 824(f), that is engaged in the sale of electric energy at
118 wholesale in interstate commerce or in the transmission of energy in interstate
119 commerce.

120 **3.20. Open Access Transmission Tariff (“OATT”):** The open access
121 transmission tariff of an ETO on file with FERC pursuant to Section 205 or 206 of
122 the Federal Power Act or, if the entity is a Non-Public Utility, the reciprocity open
123 access transmission tariff of such entity posted on its Open Access Same-Time
124 Information System (“OASIS”).

125 **3.21. Planning Commencement Date:** January 1, 2015, for the one-year
126 abbreviated cycle. January 1, 2016, for the standard biennial planning process.

127 **3.22. Planning Management Committee (“PMC”):** The committee established
128 pursuant to Section 8.1 of this Agreement to administer the WestConnect Regional
129 Planning Process.

130 **3.23. Planning Subcommittee:** A standing subcommittee of the Planning
131 Management Committee. The responsibilities of the Planning Subcommittee are
132 described in Section 8.4.1 hereof.

133 **3.24. Power Flow Working Group (“PFWG”):** A standing working group of the
134 Planning Subcommittee that will perform power flow, voltage, stability, short circuit
135 and transient analyses and such other functions as defined and directed by the PMC.

136 **3.25. Public Utility:** An entity defined in Section 201(e) of the Federal Power Act,
137 16 U.S.C. 824(e).

138 **3.26. Purchasing-Selling Entity (“PSE”):** An entity that purchases and/or sells,
139 and takes title to, energy, capacity and interconnected operations services. PSEs may
140 be affiliated or unaffiliated merchant entities and may or may not own generating
141 facilities.

142 **3.27. Regional Transmission Plan:** The WestConnect Planning Region’s
143 transmission plan that is approved by the PMC every two years as a product of the
144 WestConnect Regional Planning Process.

145 **3.28. State Regulatory Commission (“SRC”):** A Member meeting the criteria set
146 forth in Section 6.1.4 herein.

147
148 **3.29. WECC:** The Western Electricity Coordinating Council or its successor
149 organization.

150 **3.30. 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 **3.31. WestConnect Planning Region:** The electric system topology that
155 consists of transmission facilities in the Western Interconnection owned by ETOs.

156 **3.32. WestConnect Regional Transmission Planning and Cost Allocation**
157 **Process (“WestConnect Regional Planning Process”):** The regional transmission
158 planning and cost allocation process developed to comply with Order No. 1000 and

159 approved by FERC for the WestConnect Planning Region, including interregional
160 coordination processes developed among WestConnect and neighboring regions.
161 Specifics of the WestConnect Regional Planning Process are described in Section 7
162 herein.
163

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

166
167 To facilitate a smooth transition into the WestConnect Regional Planning Process,
168 the parties to the STP Agreement suspended, but did not terminate, the STP
169 Agreement as of the Planning Commencement Date. The ETOs later may agree to
170 terminate the STP Agreement under its own terms or withdraw from the STP
171 Agreement, as appropriate.

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

175
176 **5.1. Execution.** After the Effective Date of this Agreement, an interested entity
177 may become a Member by executing a copy of this Agreement and a copy of the
178 notification in the form attached to this Agreement indicating that it is joining a
179 Member Sector for which it qualifies pursuant to Section 6.2 (see the form, “Member
180 Sector Notification”). After formation of the PMC pursuant to Section 8.1, the PMC
181 shall determine, pursuant to Section 8.3.12, whether each entity that has executed this
182 Agreement is eligible to join the Member Sector designated in that entity’s Member
183 Sector notification. Public Utilities that meet the criteria for membership in the ETO
184 Member Sector may only join as Enrolled Transmission Owners in the ETO Member
185 Sector described in Section 6.1.1 and may not participate in any other Member
186 Sector. Any other entity may join any Member Sector for which it qualifies, but
187 may only belong to one Member Sector at a time.

188 **5.2. Membership of Non-Public Utilities.** A Non-Public Utility that meets the
189 criteria for membership in the ETO Member Sector, as described in Section 6.1.1,
190 may elect to join the ETO Member Sector by providing an executed copy of the

191 Member Sector Notification form attached to this Agreement. Except as special
192 circumstances warrant otherwise and as determined by the affirmative vote of the
193 PMC, the PMC will make a decision on membership approvals no later than the
194 second in-person PMC meeting after receipt of the Member Sector Notification form.
195 For the first abbreviated planning cycle, the PMC will act on or before September 1,
196 2015 on any Non-Public Utility member application received on or before July 1,
197 2015. If a Non-Public Utility joins a Member Sector other than the ETO Sector, the
198 PMC will not perform the function of regional transmission planning for the Non-
199 Public Utility.

200 **5.3. Effective Dates of Enrollment and Membership.** A list of current ETOs
201 is maintained in the OATTs of the Public Utility ETOs, which shall report revisions
202 to the list of ETOs through filing updates of the respective OATTs with the
203 Commission. The effective date of enrollment of a Public Utility ETO is the
204 effective date of its OATT filing adding its name to the list of ETOs. The effective
205 date of membership of all other Members is the date that the Member's Member
206 Sector designation is approved by the PMC.

207 **5.4. Unenrollment.** Any Non-Public Utility ETO seeking to unenroll from the
208 region must do so under Section 5.6, governing the withdrawal of Members.

209 **5.4.1.** An unenrolling Non-Public Utility ETO will continue to be subject
210 to Cost Allocation for its share of the transmission facilities that were first
211 selected for Cost Allocation in the WestConnect Regional Planning Process in
212 prior planning cycles as to which it was enrolled, subject to reevaluation in the
213 WestConnect Regional Planning Process.

214 **5.5. Member Sector Changes**

215 **5.5.1.** Except for Members of the ETO Sector, any Member is free at any
216 time, upon thirty (30) calendar days' written notice, and submission to the Chair
217 of the PMC an updated Member Sector Notification, to change from the Member
218 Sector in which it elected to participate to any other Member Sector for which it
219 qualifies.

220 **5.5.2.** If a Member moves from any other Member Sector to the ETO
221 Member Sector, the Member's dues will increase to the ETO Member Sector
222 level upon the effective date of the Member Sector change. If a Non-ETO
223 Member moves from any Member Sector to any Member Sector other than the
224 ETO Member Sector, the Member's dues will be at the higher of the two Member
225 Sector levels for a period of 180 days after the effective date of the Member
226 Sector change or through the end of the calendar year, whichever period is longer,
227 and thereafter the Member shall pay dues at its new Member Sector level.

228 **5.5.3.** A Member's change in Member Sector will not affect the
229 continuation of this Agreement. Other than as set forth as a PMC responsibility
230 under Section 8.3 herein, no Member shall oppose any other Member's election
231 or change of Member Sectors except that this section will not operate to limit the
232 authority of a SRC to address the membership of a Public Utility over which it
233 has jurisdiction outside the WestConnect Regional Planning Process.

234 **5.5.4.** Notwithstanding a Member's change of Member Sector pursuant to
235 this Section, the changing Member shall continue to be obligated to fulfill its

236 Member responsibilities, including but not limited to payment of dues in
237 accordance with this Section 5.5 and with Sections 6.4 and 6.5.

238 **5.5.5.** A Member's change in Member Sectors does not prevent that
239 Member from future membership in any Member Sector for which it qualifies.

240 **5.5.6.** A Member giving notice of a change in its Member Sector may
241 rescind that notice at any time prior to the change becoming effective by
242 providing written notice of its rescission to the Chair of the PMC.

243 **5.6. Withdrawal of a Member**

244 **5.6.1.** Any Member may withdraw its participation in this Agreement
245 upon a 180 calendar day written notice to the Chair of the PMC. In the event a
246 Member provides the notice to withdraw prior to July 1st, the withdrawing
247 Member shall remain obligated to pay its annual dues pursuant to Sections 6.4.2
248 and 6.4.3 or its share of expenses pursuant to Section 6.4.5 for the remainder of
249 the calendar year in which the withdrawal takes place. In the event a Member
250 provides a notice to withdraw on or after July 1st, the withdrawing Member shall
251 remain obligated to pay its annual dues or its share of expenses for that calendar
252 year and the following calendar year. Members also may withdraw in accordance
253 with Section 5.6.8 of this Agreement.

254 **5.6.2.** Performance of its obligations under this Agreement by any
255 Member that is funded by appropriations from a Governmental Authority is
256 expressly subject to the appropriation of sufficient funds by its Governmental
257 Authority. Such Member warrants that the funds appropriated with respect to this
258 Agreement for the first year in which the Agreement is in effect as to that

259 Member are equal to or exceed the Member's participation amount for that year
260 as established by Section 6.4. In the event appropriated funds are insufficient to
261 permit performance of a Member's obligations under this Agreement, or
262 appropriated funds may not be expended due to the Governmental Authority's
263 spending limitations, then that Member's membership in the WestConnect
264 Regional Planning Process and obligations under this Agreement (except as
265 provided in Section 5.6.5) shall thereafter become null and void by operation of
266 law. A Member that is funded by appropriations by a Governmental Authority
267 that does not have sufficient funds to perform its obligations under this
268 Agreement shall submit a written notice of withdrawal to the Chair of the PMC as
269 soon as reasonably practical. Such notice of withdrawal shall become effective
270 on the date specified by the Member, but in no event later than the date as of
271 which the Member has insufficient funds to meet its obligations under this
272 Agreement.

273 **5.6.3.** If a Member declines to execute a modification to the Agreement
274 approved in accordance with Section 12.4 herein, that Member shall be obligated
275 to submit its notice of withdrawal from the Agreement in accordance with
276 Section 5.6. If a Member is prohibited from executing a modification to the
277 Agreement due to legal constraints, or in the case of a ETO Member due to
278 conflict with its transmission tariff, this Section 5.6.3 shall not apply.

279 **5.6.4.** A Member's withdrawal shall not affect the continuation of this
280 Agreement for remaining Members. No Member shall oppose any other
281 Member's withdrawal, except that this section shall not operate to limit the

282 authority of an SRC to address the membership of a Public Utility or Non-Public
283 Utility over which it has jurisdiction outside the WestConnect Regional Planning
284 Process.

285 **5.6.5.** Notwithstanding a Member’s notice of withdrawal, the withdrawing
286 Member shall continue to be obligated to fulfill its responsibilities imposed under
287 this Agreement, including but not limited to its funding responsibilities as set
288 forth in Section 6.4 hereof. An ETO that withdraws its participation in this
289 Agreement shall not be subject to binding Cost Allocation for any transmission
290 facility selected in the WestConnect Regional Planning Process for purposes of
291 Cost Allocation subsequent to such ETO Member’s withdrawal. If withdrawal of
292 a ETO Member from the Agreement affects Cost Allocation for a transmission
293 facility selected in the WestConnect Regional Planning Process for purposes of
294 Cost Allocation, upon receipt of the notice of withdrawal, the PMC shall
295 reevaluate the transmission facility pursuant to the WestConnect Regional
296 Planning Process.

297 **5.6.6.** A Member’s withdrawal does not prevent that Member from
298 reapplying as a Member in any Member Sector for which it qualifies.

299 **5.6.7.** A Member’s withdrawal does not prevent that Member from
300 engaging in WestConnect Regional Planning Process activities as a stakeholder
301 outside of this Agreement. Each Public Utility ETO Member has on file with
302 FERC tariff provisions that provide for generally-applicable stakeholder
303 participation in the regional planning process for the WestConnect Planning
304 Region. A Member that withdraws from this Agreement is eligible to participate

305 in the regional planning process as a stakeholder by attending publicly-posted
306 WestConnect regional transmission planning stakeholder meetings and/or by
307 submitting project proposals for consideration and evaluation in the regional
308 planning process.

309 **5.6.8.** Notwithstanding any other provision in this Agreement, a Member
310 may withdraw immediately its participation in this Agreement at any time upon
311 written notice to the Chair of the PMC if that Member determines in its sole
312 discretion that there is a material risk of adverse regulatory action or FERC
313 orders a modification of this Agreement or imposes a material condition upon
314 participation in this Agreement adversely affecting such Member. If the
315 Member's notice of withdrawal pursuant to this Section 5.6.8 is given prior to
316 July 1st, the withdrawing Member shall remain obligated to pay its annual dues
317 under Section 6.4.3 or its share of expenses under Section 6.4.5 for the remainder
318 of the calendar year in which the withdrawal takes place. If a Member's notice of
319 withdrawal is given on or after July 1st, the withdrawing Member shall remain
320 obligated to pay its annual dues or its share of expenses pursuant to Section 6.4
321 for that calendar year and the following calendar year.

322 **5.6.9.** A Member giving notice of its withdrawal may rescind that notice
323 prior to its withdrawal becoming effective by providing written notice of its
324 rescission to the other Members, as long as the written notice of rescission is
325 provided no later than 30 days prior to the Member's withdrawal becoming
326 effective.

327 **5.7. Termination of Agreement by ETOs**

328 **5.7.1.** The ETOs have sole discretion to terminate this Agreement, upon a
329 unanimous vote of ETOs provided that certain sections of this Agreement are
330 expressly identified to survive termination.

331 **5.7.2.** If termination is approved under this Section 5.7, the Agreement
332 will terminate on the date specified by the ETOs who vote to terminate it
333 pursuant to Section 5.7.1 above, which will be no later than 90 days after the vote
334 to terminate.

335 **6. MEMBERS AND MEMBERSHIP**

336 **6.1. Member Sectors.** The Member Sectors in this Agreement are as follows:

337 **6.1.1. ETO Member Sector:** A sector composed of entities that enroll in
338 the WestConnect Planning Region for purposes of Cost Allocation pursuant to
339 Order No. 1000 and that (1) provide transmission service and own a minimum of
340 one hundred (100) circuit miles or \$100 million of original installed cost of
341 transmission plant rated at 115 kV and higher within the Western
342 Interconnection; and (2) serve a minimum of 150 MW of retail and/or wholesale
343 network load within the Western Interconnection. As it pertains to the
344 requirements above, ETO Members may include but are not limited to vertically-
345 integrated utilities, generation and transmission cooperative associations, federal
346 power marketing administrations, municipal utilities and joint action agencies
347 whose members are registered with NERC as Load Serving Entities. Joint action
348 agencies that meet requirement (1), above, on a standalone basis, and can meet
349 requirement (2), above, by virtue of their members, are eligible to join the ETO
350 Member Sector. Corporate affiliates of ETO that do not meet requirement

351 number (1) above on a standalone basis are eligible to join the ETO Member
352 Sector, provided that they meet requirement number (2) above. For purposes of
353 cost sharing of legal costs and the costs to conduct the WestConnect regional
354 transmission planning process, ETO Members that are corporate affiliates of each
355 other shall be considered one entity.

356 **6.1.1. Transmission Customer (“TC”) Member Sector:** A sector
357 composed of entities that receive transmission service or generator
358 interconnection service pursuant to an agreement with a ETO Member or ITDO
359 Member. TC Members may include, but are not limited to, generation
360 developers, Generator Owners, Load Serving Entities and Purchasing-Selling
361 Entities. To qualify as a TC Member, a generation developer must have entered
362 into a GIA with a ETO Member or an ITDO Member.

363 **6.1.2. Independent Transmission Developer or Owner (“ITDO”)**
364 **Member Sector:** A sector composed of entities that either (1) plan to develop
365 one or more transmission projects rated at 115 kV or higher within the
366 WestConnect Planning Region, which project(s) must have been submitted into
367 the WECC Regional Planning Project Review Process and the WestConnect
368 Regional Planning Process for reliability assessment; or (2) own transmission
369 facilities rated at 115 kV or higher located within or connected to the
370 WestConnect Planning Region but does not serve a minimum of 150 MW of
371 retail and/or wholesale network load.

372 **6.1.3. State Regulatory Commission (“SRC”) Member Sector:** A
373 sector composed of state regulatory commissions with jurisdiction over the

374 provision of electric service at retail over facilities located within the United
375 States portion of the Western Interconnection, which facilities are owned or
376 operated by an ETO serving electric retail load.

377 **6.1.4. Key Interest Group (“KIG”) Member Sector:** A sector
378 composed of entities that do not qualify or that elect not to join as Members of
379 one of the other Member Sectors. Such entities may include, but are not limited
380 to, state energy offices, consumer representatives, resource and environmental
381 advocacy groups, and generation developers.

382 **6.2. Active and Inactive Members.** A Member has all rights and obligations
383 under this Agreement as long as it maintains Active Member status. To maintain
384 Active Member status, (1) a Member’s designated representative or alternate must
385 attend at least three (3) PMC meetings within each rolling 12-month period in person
386 or by teleconference or video conference; and (2) a Member must meet the funding
387 requirements (if any) set forth in Section 6. A Member that does not meet these
388 requirements will be deemed an Inactive Member by the PMC. An Inactive Member
389 may be reinstated upon demonstration of renewed, current compliance with the
390 Active Member requirement(s), including payment of any delinquent dues and
391 expenses. A Member may designate itself as an Inactive Member at any time by
392 providing thirty (30) days’ written notice to the PMC Chair. Such self-designated
393 Inactive Member status will be effective until the Inactive Member provides thirty
394 (30) days’ written notice that it wishes to be reinstated as an Active Member and that
395 it meets the Active Member requirements and is approved for reinstatement as an
396 Active Member by the PMC. An Inactive Member may not participate as a voting

397 member in the WestConnect Regional Planning Process other than to fulfill its
398 obligations for funding the WestConnect Regional Planning Process (if any) during
399 the inactive period. A Member that is in Inactive status for two consecutive years
400 shall be deemed withdrawn from the Agreement.

401 **6.3. Change in Member Status by the PMC.** The PMC, by a vote of all five
402 Member Sectors, provided that each sector approves such action with a minimum of
403 75% of the voting members present in person or by teleconference or video
404 conference, may designate a Member as Inactive, or terminate the membership of a
405 Member, for a failure to meet any of such Member's obligations under this
406 Agreement, including, but not limited to: (1) non-payment of dues, fees, penalties, or
407 other amounts assessed pursuant to this Agreement; (2) intentionally or repeatedly
408 violating any PMC policy or practice; (3) breaching or intentionally violating any
409 relevant decision by a regulatory body with jurisdiction over the issue; or (4)
410 willfully obstructing any lawful purpose or activity of the PMC; provided that
411 initiating a dispute in accordance with Section 10 of this Agreement shall not be
412 grounds for designating a Member as Inactive or terminating its membership.

413 **6.4. Funding**

414 **6.4.1.** SRC Members and KIG Members that are state energy offices or
415 state consumer representatives shall have no obligations to fund PMC-approved
416 expenses for the activities and functions of the WestConnect Regional Planning
417 Process.

418 **6.4.2.** KIG Members that are NGOs shall be subject to a tiered dues
419 structure based on the organization's annual operating budget set forth below.

420 Such KIG Member must annually submit an attestation, in the form attached to
421 this Agreement, executed by an official of the KIG Member organization with
422 authority to bind the organization.

423 **6.4.2.1.** KIG Members with annual operating budgets exceeding
424 \$15,000,000 shall pay dues of \$3,250 per calendar year.

425 **6.4.2.2.** KIG Members with annual operating budgets between \$8,000,001
426 and \$15,000,000 shall pay dues of \$1,200 per calendar year.

427 **6.4.2.3.** KIG Members with annual operating budgets between \$4,000,001
428 and \$8,000,000 shall pay dues of \$650 per calendar year.

429 **6.4.2.4.** KIG Members with annual operating budgets between \$2,000,001
430 and \$4,000,000 shall pay dues of \$325 per calendar year.

431 **6.4.2.5.** KIG Members with annual operating budgets less than \$2,000,001
432 shall not be responsible for membership dues.

433 **6.4.3.** Each KIG Member (except those exempted from paying dues or
434 subject to alternate dues amount pursuant to Section 6.4.2), TC Member and
435 ITDO Member shall pay dues of \$5,000 per calendar year.

436 **6.4.4.** Dues shall be paid no later than January 31 of each calendar year or
437 within forty-five (45) calendar days of executing the Agreement.

438 **6.4.5. ETO Members.** ETO Members shall be responsible for funding the
439 expenses to carry out the activities and functions of the WestConnect Regional
440 Planning Process as approved by the PMC pursuant to the Agreement that are in
441 excess of (1) funds provided pursuant to Section 6.4.2 hereof and (2) funds
442 provided by project proponents and interested parties for planning study requests

443 as described in the BPM. Such expenses shall be divided among the ETO
444 Members according to the following formula:

445	c	=	$(0.5 (1/x + y/\sum y)) \times 100$, where:
446	c	=	each ETO Member's expense share percentage
447	x	=	the total number of ETO Members under this Agreement
448	y	=	each ETO Member's annual energy in MWh delivered to the
449			ETO Member's load residing in the WestConnect Planning Region,
450			and
451	$\sum y$	=	the total of all ETO Members' annual energy in MWh delivered to
452			the ETO Members' load residing in the WestConnect Planning Region.

453
454 The ETO Members shall update the load ratio shares calculation ($y/\sum y$) annually.
455 Additionally, the total expense share percentage for each ETO Member,
456 calculated according to the formula above, shall be updated in any month in
457 which the total number of ETO Members changes.

458 **6.5. Finance Agent; Billing and Payment**

459 **6.5.1.** Within ninety (90) days of the Effective Date, the PMC shall
460 appoint a ETO member as the Finance Agent. In the event no ETO Member is
461 willing to serve as Finance Agent, the PMC shall appoint a third party to serve as
462 Finance Agent.

463 **6.5.2.** The Finance Agent shall establish an operating account at a bank of
464 its choice and so notify the Chair of the PMC within five (5) business days
465 following such establishment. Such account shall be segregated from the Finance

466 Agent's own accounts and funds. The PMC Chair and Vice-Chair may request to
467 be added as signatories to the operating account.

468 **6.5.3.** The Finance Agent shall establish a minimum cash balance for the
469 operating account, which shall be funded, in accordance with Section 6.4, by the
470 ETO Members initially and replenished with dues from Members and additional
471 contributions from ETO Members for deficiencies thereafter as necessary, to
472 ensure full payment of expenditures incurred pursuant to this Agreement. The
473 minimum cash balance at the end of each month will be at least equal to the
474 budgeted expenditures for the next sixty (60) days.

475 **6.5.4.** The Finance Agent shall bill ETO Members on a monthly basis
476 according to the expense ratio allocations calculated pursuant to Section 6.4.5.
477 All other Members will be billed on an annual basis pursuant to section 6.4. In
478 preparing the billing, the Finance Agent shall take into consideration the current
479 PMC cash balance, the anticipated PMC expenditures in the next sixty (60) days
480 based upon PMC contractual or other commitments, and other PMC budgeted
481 expenses, including the Finance Agent's costs incurred fulfilling its obligations
482 under this Section 6, for the next sixty (60) days, as may be adjusted to more
483 appropriately reflect forecasted PMC expenditures for the next sixty (60) days.

484 **6.5.5.** Each Member shall provide the Finance Agent with the mailing
485 address and e-mail address of its PMC Representative and the name, mailing
486 address and e-mail address of a second person authorized by the Member to
487 receive invoices, which shall be sent by the Finance Agent via e-mail or other
488 electronic communications.

489 **6.5.6.** All amounts billed to the Members under this Agreement will be due
490 and payable to the Finance Agent within forty-five (45) business days following
491 the billing date. The billing date will be the date on which invoices are sent to the
492 parties pursuant to Section 6.5.5 via e-mail or other electronic communications.
493 If a Member disputes the amount billed to it, it shall timely pay the full amount
494 due under protest and provide Written Notice of Dispute to the Legal
495 Subcommittee in accordance with the procedures described in Section 10 hereto
496 within forty-five (45) business days following the billing date. Absent timely
497 written notice of a billing dispute, a Member shall be deemed to have approved
498 the amounts billed for that applicable billing period.

499 **6.5.7.** Failure of a Member to timely pay amounts billed will constitute a
500 payment default under this Agreement. The Finance Agent shall provide written
501 notice of the existence of a payment default to the defaulting Member and to the
502 Chair of the PMC within ten (10) calendar days following the date of payment
503 default. After receipt of such notice of payment default, the defaulting Member
504 shall take all steps necessary to promptly and completely cure such payment
505 default within thirty (30) calendar days of the date that the Finance Agent mailed
506 or delivered the notice of payment default to the defaulting Member. In the event
507 that the defaulting Member does not cure the payment default within thirty (30)
508 calendar days of the date that the Finance Agent mailed or delivered the notice of
509 payment default to the defaulting Member, the PMC may designate the Member
510 as Inactive or terminate its membership as herein provided.

511 **6.5.8.** The Finance Agent shall credit interest earned on the operating
512 account toward operating expenses under this Agreement.

513 **6.5.9.** The Finance Agent shall, every two months, prepare and provide to
514 the PMC a financial report on income received, and costs and expenditures
515 incurred, under this Agreement. Such report shall reflect the approved
516 Agreement budget, actual costs and payments, cost allocation percentages, and
517 the status of the operating account cash balance. The PMC will review and
518 accept, or require modification(s) and then accept, each such report consistent
519 with industry practices for auditable records.

520 **6.5.10.** In the event that the Agreement is terminated, the Finance Agent
521 shall, after paying all bills, liquidate the operating account and refund remaining
522 monies to Members. Funds shall be distributed in accordance with direction
523 provided by the PMC based pro rata on funds contributed by each Member.

524 **7. WESTCONNECT REGIONAL PLANNING PROCESS**

525
526 The WestConnect Regional Planning Process is conducted pursuant to a biennial
527 planning cycle which is more fully described in the respective Members' OATTs on
528 file with the Commission, as supplemented by the BPM. Each step in the
529 WestConnect Regional Planning Process is overseen and requires approval by the
530 PMC. The WestConnect Regional Planning Process includes, but may not be limited
531 to, the following general steps:

532 **7.1. Development of the Regional Study Plan.** The WestConnect Regional
533 Planning Process will develop a regional study plan at the start of each biennial
534 planning cycle, which will include, but not be limited to, determination of base cases,

535 the study time frame, planning data and assumptions, enacted public policy
536 requirements incorporated in ETO Members' local planning processes, alternative
537 scenarios to be studied, computer software that will be utilized, and the proposed
538 schedule and mechanisms for stakeholder involvement in the WestConnect Regional
539 Planning Process.

540 **7.2. Development of Planning Models.** Upon PMC approval of the regional
541 study plan, the WestConnect Regional Planning Process will develop the power flow
542 and production cost models required to perform the technical studies outlined in the
543 regional study plan, including but not limited to determination of required data and
544 assumptions on loads, transmission, generation and non-transmission alternatives
545 additions and retirements, heat rates, ramp rates, fuel costs, and maintenance and
546 forced outages.

547 **7.3. Identification of Regional Transmission Needs.** Upon PMC approval of
548 the planning models, the WestConnect Regional Planning Process will commence
549 identification of regional transmission needs (the transmission needs of multiple
550 ETOs), which will include but not be limited to evaluation and validation of the
551 planning models; performance of systems assessments to evaluate regional reliability
552 needs, economic needs, and needs required to meet public policy requirements; and
553 sharing planning model information and identified regional needs for the
554 WestConnect Planning Region with other regional planning entities in the Western
555 Interconnection.

556 **7.4. Submittal of Projects to Meet Regional Transmission Needs.** Upon
557 PMC approval of identified regional transmission needs, the WestConnect Regional

558 Planning Process will conduct an open process for submittal of projects to meet
559 identified regional transmission needs by Active Members in good standing, as
560 defined in Section 6.2 of this Agreement. Valid project submittals may include
561 proposed transmission projects, both projects seeking and not seeking Cost
562 Allocation, and proposed non-transmission alternatives.

563 **7.5. Identification of Projects that Meet Regional Transmission Needs.**

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

572 **7.6. Identification of Beneficiaries and Cost Allocation.** The WestConnect
573 Regional Planning Process will evaluate valid project submittals that seek allocation
574 of costs to determine if they meet Cost Allocation eligibility requirements. A valid
575 project seeking Cost Allocation that is deemed eligible for Cost Allocation by the
576 PMC in accordance with the open access transmission tariffs of the ETOs must
577 demonstrate known and measurable reliability, economic and/or enacted public
578 policy benefits at or above applicable benefit/cost ratios. On or before the end of the
579 7th quarter of the WestConnect Regional Planning Process, the Cost Allocation
580 Subcommittee is to submit, for review and comment, the results of its project

581 benefit/cost analysis and beneficiary determination to the PMC Chair and to the
582 identified beneficiaries of the transmission projects proposed for Cost Allocation.
583 The PMC shall make available to its Members sufficient information to allow for a
584 reasonable opportunity to comment on the proposed selection. The PMC shall not
585 make a determination on the project benefit/cost analysis and beneficiary
586 determination until it has reviewed all comments. Upon approval of the PMC, the
587 project benefit/cost analysis and beneficiary identifications shall be posted by the
588 PMC on the WestConnect website.

589 **7.7. Development of the Regional Transmission Plan.** Upon completion of a
590 proposed WestConnect regional plan based upon the analysis and identification of
591 alternatives to meet regional transmission needs described in Sections 7.1 through
592 7.6, including receipt and review of stakeholder questions, comments and input, the
593 PMC will vote on whether to accept the proposed plan. The PMC will include in the
594 approved Regional Transmission Plan documentation of the reasons for inclusion or
595 exclusion of proposed transmission projects and non-transmission alternatives in the
596 plan.

597 **7.8. Developer Selection Process.** After the plan is complete, the PMC will
598 select a developer that has the right to use the regional Cost Allocation method for
599 each project included in the Regional Transmission Plan for purposes of Cost
600 Allocation.

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

602

603 **8.1. Planning Management Committee (“PMC”).** The WestConnect

604 Regional Planning Process shall be managed and governed by the PMC. Each

605 Member shall appoint one person to represent the Member on the PMC. Each
606 Member representative shall serve on the PMC at the pleasure of the Member that
607 appointed the representative and may be removed or replaced by such Member at any
608 time. If a Member's designated representative is unable to attend or participate in a
609 PMC meeting in person or by teleconference or video conference, the Member
610 representative may designate an alternate person to represent the Member in the
611 meeting. However, no Member may cast more than one vote on matters before the
612 PMC. Each Member shall be responsible for ensuring its PMC representatives have
613 executed all agreements necessary for participation in the WestConnect Regional
614 Planning Process.

615 **8.1.1. Meetings of the PMC and Subordinate Committees.** Meetings of the
616 PMC and any subordinate committees shall be called as follows:

617 **8.1.1.1. Frequency.** The PMC shall meet every two months, or more
618 frequently as needed. Subordinate committees shall meet as necessary.

619 **8.1.1.2. Notice.** Except as provided for in Sections 8.1.1.3 and 8.1.1.4, the
620 chair of the PMC or a subcommittee shall cause a notice of meetings of the
621 PMC or any subordinate committees to be posted on the WestConnect
622 website and via email to all Members at least fourteen (14) days in advance of
623 the meeting.

624 **8.1.1.3. Emergency Meetings.** Emergency meetings of the PMC or any
625 subordinate committee may be called by the PMC Chair or Vice Chair (or, in
626 the case of a subordinate committee, by the subcommittee chair) with no less
627 than five (5) business days' notice (unless circumstances require immediate

628 action). The PMC Chair, Vice Chair or subcommittee chair shall cause such
629 notice to be posted on the WestConnect website and via email to all
630 Members.

631 **8.1.1.4. Special Considerations for Legal Subcommittee Meetings.**

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

636 Notwithstanding the immediately preceding sentence, Legal Subcommittee
637 meetings may be required from time to time on short notice to, among other
638 things, timely respond to deadlines imposed pursuant to administrative and/or
639 court orders, and/or any other rules of procedure of the applicable
640 Governmental Authority, and/or to otherwise respond to time-sensitive legal
641 matters (collectively, “Time-Sensitive Legal Matters”). In the event of Time-
642 Sensitive Legal Matters, the chair of the Legal Subcommittee shall cause the
643 notice of a Legal Subcommittee meeting to be posted on the WestConnect
644 website and provided via email to all Members as soon as reasonably
645 practicable prior to the meeting if such meeting cannot take place in
646 accordance with the notice provisions set forth in Sections 8.1.1.2 and 8.1.1.3
647 above, but no less than two (2) business days’ prior notice.

648 **8.2. PMC Chair and Vice Chair.** The PMC shall elect a Chair and a Vice
649 Chair from among the Member representatives to serve two-year terms, provided that
650 the Chair and Vice Chair may each serve no more than two consecutive two-year

651 terms in those roles. The PMC shall strive to have the Chair and Vice Chair seats
652 populated from different Member Sectors; however, the PMC has the discretion to
653 decide otherwise, as reasonable and appropriate, in light of the number of PMC
654 Members willing to serve in such positions at the time and their professional
655 background and expertise. The greater the number of vacant or sparsely-populated
656 Member Sectors, the greater the PMC's discretion in this regard. The Chair shall
657 conduct all meetings of the PMC. The Vice Chair shall assume the Chair's
658 responsibilities in the temporary absence of the Chair. Unless the PMC directs
659 otherwise, if the Chair is unable to complete his or her two-year term, the Vice Chair
660 shall become the Chair for the remainder of the Chair's term, and the PMC will elect
661 a Vice Chair from among the Member representatives to fulfill the remainder of the
662 Vice Chair's term.

663 **8.3. PMC Responsibilities.** The PMC is responsible for the management of the
664 WestConnect Regional Planning Process pursuant to this Agreement. The PMC may
665 delegate activities to the planning management project manager or others as it sees
666 fit. However, the PMC retains ultimate authority for the responsibilities listed below:

667 **8.3.1.** Develop and approve the Regional Transmission Plan that includes
668 application of the Cost Allocation methodology for the WestConnect Planning
669 Region.

670 **8.3.2.** Develop and approve an annual budget for the WestConnect Regional
671 Planning Process activities and functions.

672 **8.3.3.** Develop and approve an annual scope of work, work plan and periodic
673 reporting for WestConnect Regional Planning Process activities and functions,

674 including holding a minimum of two stakeholder informational meetings per
675 year.

676 **8.3.4.** Employ an independent contractor to perform WestConnect planning
677 management project manager services.

678 **8.3.5.** Direct, delegate and otherwise assign administrative responsibilities to
679 the planning management project manager.

680 **8.3.6.** Arrange for the purchase and performance of goods and services,
681 including consulting services, necessary or appropriate for conduct of the
682 WestConnect Regional Planning Process.

683 **8.3.7.** Biennially elect a PMC Chair and a Vice Chair.

684 **8.3.8.** Appoint the Chair of the Planning Subcommittee, the Chair of the Cost
685 Allocation Subcommittee, the Chair of the Legal Subcommittee and the chair of
686 any other subcommittee created by the PMC pursuant to Section 8.4 to serve as
687 the spokesperson for each such subcommittee. Each of these subcommittee
688 chairs must be a representative of a ETO Member, provided that the Chair of the
689 Cost Allocation Subcommittee must be a representative of an ETO Member. A
690 subcommittee chair may serve no more than two consecutive two-year
691 appointments, unless the PMC directs otherwise.

692 **8.3.9.** Appoint and dissolve permanent or ad hoc work groups and
693 subcommittees as appropriate to carry out the WestConnect Regional Planning
694 Process.

695 **8.3.10.** Approve the purposes and responsibilities, and revisions thereto, of work
696 groups and subcommittees established pursuant to Section 8.3.9, including
697 reporting responsibilities.

698 **8.3.11.** Approve the initial BPM and thereafter approve subsequent BPM
699 revisions in accordance with the procedures set forth in the BPM.

700 **8.3.12.** Determine whether an entity signing this Agreement is eligible for the
701 Member Sector it elects to join.

702 **8.3.13.** Select a website contractor and approve website changes related to the
703 WestConnect Regional Planning Process.

704 **8.3.14.** Act on recommendations or other matters referred to it by its
705 subcommittees and ad hoc work groups.

706 **8.3.15.** Determine a Member's Active Member or Inactive Member status as
707 provided herein.

708 **8.3.16.** Determine and approve expenses and fees for study work for projects
709 submitted for evaluation as part of the WestConnect Regional Planning Process.

710 **8.3.17.** Develop and approve processes to invite stakeholder involvement in
711 PMC, subcommittee and work group meetings and opportunities for comment on
712 the WestConnect Regional Planning Process.

713 **8.3.18.** Coordinate with neighboring planning regions and stakeholders to
714 develop and implement processes for interregional transmission planning
715 coordination.

716 **8.3.19.** Appoint a Finance Agent and audit the Finance Agent at the discretion of
717 the PMC no less often than every three years.

718 **8.3.20.** Take other actions as necessary to effectuate the WestConnect Regional
719 Planning Process.

720 **8.3.21.** Designate individuals to represent the PMC in industry forums.

721 **8.3.22.** Qualify and designate developers of transmission projects eligible for
722 Cost Allocation.

723 **8.4. Subcommittees.** The Planning Subcommittee, the Cost Allocation
724 Subcommittee and the Legal Subcommittee shall be standing subcommittees of the
725 PMC. Pursuant to Section 8.3.9 herein, the PMC may establish and retire other
726 subcommittees from time to time. The PMC shall specify the purposes and
727 responsibilities of a proposed new subcommittee in the PMC approval item for the
728 formation of the subcommittee. Chairs of the Planning Subcommittee, the Cost
729 Allocation Subcommittee and the Legal Subcommittee shall be appointed by the
730 PMC pursuant to Section 8.3.8 herein. Each Member shall appoint a representative
731 to the Planning Subcommittee and to the Cost Allocation Subcommittee.
732 Appointment of a representative to other subcommittees that may be established by
733 the PMC shall be at each Member’s discretion, unless the PMC directs otherwise.
734 The Legal Subcommittee will consist of two representatives per Member Sector
735 who will be appointed by each of the Member Sectors. The Legal Subcommittee
736 representatives from each Member Sector will be attorneys, however, the Legal
737 Subcommittee representatives are to seek the input, as necessary and appropriate,
738 of business/engineering staff of PMC Members. Notwithstanding anything to the
739 contrary set forth in this Section 8.4, Member representatives appointed to the Legal
740 Subcommittee will be appointed in accordance with the provisions of Section 10.1,

741 below. Each Member representative shall serve on the subcommittee at the pleasure
742 of the Member, or Member Sector in the case of the Legal Subcommittee, that
743 appointed the representative and may be removed or replaced by such Member or
744 Member Sector, as applicable, at any time. If a Member's or Member Sector's
745 designated representative, as applicable, is unable to attend or participate in a
746 subcommittee meeting in person or by teleconference or video conference, the
747 Member or Member Sector representative, as applicable, may designate an alternate
748 person to represent the Member or Member Sector, as applicable, in the meeting.

749 **8.4.1. Planning Subcommittee.** Responsibilities of the Planning

750 Subcommittee are to:

751 **8.4.1.1.** Establish base cases for the WestConnect Regional Planning Process.

752 **8.4.1.2.** Coordinate studies between the PFWG and EPWG.

753 **8.4.1.3.** Produce the Regional Transmission Plan and recommend such plan
754 to the PMC for approval. The subcommittee will consider projects from the
755 PFWG and EPWG that are recommended for inclusion in the plan.

756 **8.4.1.4.** Provide public notice of the Planning Subcommittee meetings, and
757 provide opportunities for stakeholders to provide comments on the process
758 and proposed plan.

759 **8.4.1.5.** Perform such other functions and duties as may be assigned to it by
760 the PMC.

761 **8.4.2. Cost Allocation Subcommittee.** Nothing in this Agreement will pre-
762 determine Cost Allocation for projects or how costs allocated for projects will be

763 recovered. Subject to that limitation, responsibilities of the Cost Allocation
764 Subcommittee are as follows:

765 **8.4.2.1.** Perform or oversee the performance of the Cost Allocation
766 methodology under the WestConnect Regional Planning Process.

767 **8.4.2.2.** Review and make recommendations to the PMC regarding the
768 qualifications for projects recommended for selection for purposes of Cost
769 Allocation for inclusion in the Regional Transmission Plan.

770 **8.4.2.3.** Make recommendations to the PMC on modification of the Cost
771 Allocation methodology as necessary to meet required prongs of the Cost
772 Allocation concept, including Order No. 1000 “beneficiary pays” and
773 minimum cost-benefit ratios principles.

774 **8.4.2.4.** Make recommendations to the PMC on modification of the definition
775 of benefits as necessary to meet the required prongs of the Cost Allocation
776 methodology.

777 **8.4.2.5.** Provide public notice of Cost Allocation Subcommittee meetings in
778 accordance with Section 8.1.1.2, and provide opportunities for stakeholders to
779 provide comments on the process and proposed cost allocation.

780 **8.4.2.6.** Manage the developer selection process for projects included in the
781 regional plan for purposes of Cost Allocation.

782 **8.4.2.7.** Perform such other functions and duties as may be assigned to it by
783 the PMC.

784 **8.4.3. Legal Subcommittee.** Responsibilities of the Legal
785 Subcommittee are to:

786 **8.4.3.1.** Review, assess and agree upon a recommendation to be made to
787 the PMC of a proposed solution to any formal or informal dispute arising
788 under this Agreement from or in connection with a decision or action or a
789 failure to decide or act of or by the PMC, or any subcommittee or
790 subgroup thereof, or otherwise in connection with the WestConnect
791 Regional Planning Process.

792 **8.4.3.2.** Propose recommendations to the PMC to address and seek
793 resolution of any disputes arising under this Agreement, including,
794 without limitation, disputes among or between PMC Members, Member
795 Sectors, Member(s) and/or a third party that is not a Member under this
796 Agreement.

797 **8.4.3.3.** Provide recommendations to the PMC on legal strategy in defending
798 and/or resolving disputes, including, but not limited to, the selection and
799 retainer of outside legal counsel, if and when necessary, and whether and/or
800 when to pursue alternative dispute resolution, litigation or settlement.

801 **8.4.3.4.** Provide public notice of the Legal Subcommittee meetings in
802 accordance with Sections 8.1.1.2, 8.1.1.3 and 8.1.1.4, as applicable.

803 **8.4.3.5.** Perform such other functions and duties as may be assigned to it by
804 the PMC.

805 **8.5. Procedures for Decisions**

806 **8.5.1. PMC Approvals.** PMC voting will be conducted by Member
807 Sectors. Except as set forth below in Section 8.5.4 of this Agreement, each
808 Member is entitled to one (1) vote within its Sector. A PMC Member

809 representative must be present at a meeting, in person, by video conference, or by
810 teleconference, in order to vote. Except as set forth below in Section 8.5.4 of this
811 Agreement, each PMC Member, through its PMC Member representative, may
812 cast only one vote. Unless otherwise stated in the Agreement, approval of a
813 matter brought to a vote before the PMC requires either:

814 **8.5.1.1.** Approval by 75% of the Member representatives present within each
815 of at least three Member Sectors, where one of the three Member Sectors
816 approving is the ETO Member Sector; or

817 **8.5.1.2.** Approval by 75% of the Member representatives present within each
818 of the four Member Sectors other than the ETO Member Sector plus approval
819 by two-thirds (2/3's) of the Member representatives of the ETO Member
820 Sector.

821 **8.5.1.3.** In situations where two or more Member Sectors are vacant, the
822 PMC will apply the 75% voting thresholds in Sections 8.5.1.1 and 8.5.1.2
823 based upon 75% of the total number of Member representatives present (as
824 opposed to 75% of Member representatives within individual Sectors), as
825 follows: approval by 75% of the total Member representatives present,
826 including at least 75% of the Member representatives of the ETO Member
827 Sector.

828 **8.5.2. Subcommittee Approvals.**

829 **8.5.2.1.** Subcommittees, including the Planning Subcommittee, the Cost
830 Allocation Subcommittee and the Legal Subcommittee, shall make decisions
831 by consensus of the Member or Member Sector representatives, as applicable.

832 Consensus means that all Member or Member Sector representatives, as
833 applicable, unanimously accept a decision under consideration by the
834 subcommittee. Subcommittees will conduct straw polls to indicate positions
835 on issues in order to determine if the subcommittee has reached a consensus
836 decision. Only Member representatives or Member Sector representatives, as
837 applicable, present at a meeting in person, by videoconference or by
838 teleconference are entitled to vote in a straw poll. If a subcommittee is unable
839 to reach a consensus decision on an issue or proposal, the subcommittee shall
840 document the positions (including minority opinions) held by the Member or
841 Member Sector representatives, as applicable, and refer the positions to the
842 PMC for resolution. Recommendations reached by consensus shall be
843 provided to the PMC Chair and Vice Chair. The PMC Chair shall provide
844 advance written notice to the PMC Member representatives of any such
845 recommendations and the PMC shall vote upon any such recommendations in
846 accordance with the provisions of Section 8.5.1.

847 **8.5.2.2.** Member representatives or Member Sector representatives, as
848 applicable, of a subcommittee who are not present in person, by
849 videoconference or by teleconference at a subcommittee meeting where a
850 consensus decision was reached may provide written comments in support of
851 the consensus decision. If a Member representative or Member Sector
852 representative that was not present for a meeting in which a consensus
853 decision was reached does not agree with the consensus decision, that
854 Member representative or Member Sector representative may provide written

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

857 **8.5.3. No Waiver of State Regulatory Commission or other Members'**
858 **Decision-Making Authority.** Action by an SRC Member representative
859 participating in any part of the WestConnect Regional Planning Process shall not
860 bind any SRC Member representative or any State Regulatory Commission to
861 any particular course of action in state regulatory proceedings, or other
862 proceedings of any kind outside the WestConnect Regional Planning Process
863 forum. Similarly, no other Member shall, by virtue of its respective participation
864 in any activities under this Agreement, be bound to any particular course of
865 action in any legal or regulatory proceedings (whether local, state or federal, or
866 other proceedings of any kind) outside the scope of this Agreement.

867 **8.5.4. Affiliated Members.** In situations where two or more Members are affiliates
868 of each other, for purposes of voting under this Agreement, each Member is entitled to vote
869 in its own Sector, subject to the following conditions:

- 870 • A corporate family may not have more than one vote per Sector. For example, a
871 corporate family that creates multiple ITDO affiliates (as in the case where each
872 independent transmission project within a single corporate family is pursued through
873 a separate affiliated entity) does not enjoy multiple votes in the ITDO Sector.
874 Similarly, Members of the ETO Sector that are corporate affiliates of each other
875 shall be considered one entity and collectively entitled to a single vote in matters
876 before the PMC.
- 877 • A corporate family may not have more than two PMC votes, in total.

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

881 **9. CONFIDENTIAL INFORMATION**

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

886 **10. DISPUTE RESOLUTION**

887 **10.1. Disputes Between Members.**

888 **10.1.1.** When any Member has a dispute with another Member with respect
889 to the provisions of this Agreement (that is, a dispute within the scope of this
890 Agreement, but one that does not involve a PMC Decision), that Member
891 shall send a Written Notice of Dispute to the Legal Subcommittee Chair. For
892 purposes of this Section 10, a dispute that involves a PMC Decision is any
893 matter upon which the PMC voted pursuant to Section 8.5, and a dispute
894 within the scope of this Agreement is any matter involving the PMC's
895 management of the WestConnect Regional Planning Process pursuant to this
896 Agreement, including its Section 8.3 responsibilities. Such notice must set
897 forth in adequate detail the nature of the dispute and the solution sought. The
898 Legal Subcommittee Chair, or his/her designee, will provide written notice to
899 the PMC Member representatives that a dispute exists within fifteen (15)

900 business days of the Legal Subcommittee Chair’s receipt of written notice
901 that such a dispute exists.

902 **10.1.2.** For purposes of this Section 10.1, those Members directly or
903 indirectly involved on either side of any such dispute are referred to
904 individually as a “Disputing Member” and collectively, as the “Disputing
905 Members.”

906 **10.1.3.** To facilitate the completion of the Regional Transmission Plan in
907 accordance with the WestConnect Regional Planning Process, disputes over
908 any matter shall be raised timely.

909 **10.1.4.** Upon receipt of a Written Notice of Dispute, the Legal
910 Subcommittee shall perform the responsibilities set forth in Section 8.4.3.
911 The Legal Subcommittee Chair may assist the Disputing Member(s) with
912 informal negotiation to resolve the dispute and may, in his or her discretion,
913 ask Member representatives on the Legal Subcommittee and/or the PMC to
914 assist with the informal negotiations. Disputing Members are to bear their
915 own respective costs related to their pursuit or resolution of disputes under
916 this Section 10.1. If the Disputing Members do not resolve the dispute
917 through informal negotiations within 10 business days after receipt of the
918 Written Notice of Dispute (unless extended by the Legal Subcommittee), the
919 Legal Subcommittee Chair shall make a recommendation to the PMC for
920 resolution (which recommendation may take the form of PMC action or
921 inaction). The Legal Subcommittee has discretion to submit the dispute to the
922 PMC for resolution, and decisions made by the PMC shall be made in

923 accordance with the voting structure described in Section 8.5, above. If a
924 Disputing Member is not satisfied with the PMC's resolution, or if the PMC
925 does not act within sixty (60) calendar days, it may invoke the provisions in
926 Section 10.2 governing disputes between a Member and the PMC.

927 **10.1.5.** The dispute resolution process in this Section 10.1 is without
928 prejudice to a Disputing Member's rights under Section 206 of the Federal
929 Power Act to file a complaint with the FERC at any time or pursue resolution
930 of its dispute at any time in any legal forum with jurisdiction to hear it;
931 provided, however, that no Member waives its rights to contest that such legal
932 forum lacks jurisdiction or is not the appropriate venue. Further, nothing in
933 this Section 10 is intended to prevent the executive management of the
934 Disputing Members from becoming involved at an earlier period of the
935 dispute, including but not limited to the outset of such dispute(s).
936 Moreover nothing in this Section 10 limits any other informal
937 communications and other attempts to resolve a dispute at the earliest
938 possible time.

939 **10.2. Disputes Between a Member(s) and the PMC.**

940 **10.2.1.** A Member with a dispute against the PMC, where the dispute arises
941 from a PMC Decision or otherwise within the scope of this Agreement, that
942 Member shall send a Written Notice of Dispute to the Legal Subcommittee Chair.
943 Such notice must set forth in adequate detail the nature of the dispute and the
944 solution sought. The Legal Subcommittee Chair, or his/her designee, will
945 provide written notice to the PMC Member representatives that a dispute exists

946 within fifteen (15) business days of the Legal Subcommittee Chair's receipt of
947 written notice that such a dispute exists. Upon receipt of a Written Notice of
948 Dispute, the Legal Subcommittee shall perform the responsibilities set forth in
949 Section 8.4.3.

950 If the dispute is not resolved informally, the Legal Subcommittee shall submit the
951 dispute to the PMC for resolution, and decisions made by the PMC shall be made
952 in accordance with the voting structure described in Section 8.5. If a Disputing
953 Member is not satisfied with the PMC's resolution, it may pursue resolution of its
954 dispute in any legal forum with jurisdiction to hear it; provided, however, that no
955 Member waives its rights to contest that such legal forum lacks jurisdiction or is
956 not the appropriate venue. Notwithstanding the foregoing, and to the fullest
957 extent permitted by law, Members may agree to irrevocably waive any and all
958 rights to a trial by jury, and may agree not to request a trial by jury, with respect
959 to a legal proceeding arising out of, under, or in connection with a PMC Decision
960 or otherwise within the scope of this Agreement. This waiver of right to trial by
961 jury, however, shall not apply to the extent that the U.S. Department of Justice, as
962 a Federal Member's legal representative in any legal proceeding arising out of,
963 under, or in connection with a PMC Decision or otherwise within the scope of
964 this Agreement wishes to pursue a trial by jury in any such legal proceeding. In
965 addition, any Disputing Member(s) may call for submission of the dispute to
966 binding arbitration upon unanimous consent of all PMC Members. In the event
967 all PMC Members unanimously agree to submit the dispute to binding arbitration,
968 the procedures set forth in Attachment A shall apply. To the extent that FERC

969 has jurisdiction over the dispute, the Disputing Member(s) retains its rights to file
970 a complaint under the relevant provisions of the Federal Power Act, and such
971 Disputing Member(s) is not required to complete the dispute resolution process in
972 this Section 10.2 before filing such a complaint. Nothing in this Agreement shall
973 be deemed to waive, limit or impair in any degree the exemption of any Non-
974 Public Utility Member from FERC’s jurisdiction under the Federal Power Act or
975 to submit any Non-Public Utility Member to the jurisdiction of FERC. For
976 purposes of Section 10.2, those Member(s) adverse to the PMC are referred to
977 individually as a “Disputing Member” and collectively, as the “Disputing
978 Members.”

979 **10.2.2. Expenses Incurred to Defend and/or Resolve Disputes.** Any and
980 all necessary expenses that may be incurred by the PMC in defending the PMC or
981 any of its Member(s) against a Disputing Member’s adverse claim arising from a
982 PMC Decision or otherwise within the scope of this Agreement (e.g., in defense
983 of PMC actions or inactions), and in resolving any such claim or dispute, whether
984 through a formal or informal proceeding, including, without limitation, any
985 expenses related to the arbitration or the settlement of the dispute,² will be shared
986 among the Member Sectors, and among the Members within each Member
987 Sector, as follows: The ETO Member Sector will be responsible for 66 percent
988 of legal defense expenses, and all other Member Sectors, except the SRC
989 Member Sector, will be responsible for the remaining 34 percent of such

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.

990 expenses. For the 66 percent of expenses assigned to the ETO Member Sector,
991 the expenses will be shared pro rata among the Members in the Sector, based
992 upon the number of Members in the Sector. For the 34 percent of expenses
993 assigned to the ITDO, TC and KIG Member Sectors, the expenses will be shared
994 among the Sectors equally, and then within each Sector, the expenses will be
995 divided pro rata among the Members of that Sector, based upon the number of
996 Members in the Sector.

997 **10.2.3.** The obligations set forth in this Section 10.2 shall apply only to the
998 extent that the dispute arises from a PMC Decision or otherwise within the scope
999 of this Agreement and shall not impose an obligation upon any Member to
1000 cooperate and defend or pay for any expenses related to disputes that do not arise
1001 from a PMC Decision or otherwise within the scope of this Agreement. The
1002 PMC has discretion to deviate from the percentage split of legal defense costs
1003 shown above in situations in which a Member Sector is so sparsely populated at
1004 the time of the allocation such that the allocation would result in a substantially
1005 disproportionate and unfair burden on a single Member or Member Sector. In
1006 addition, the PMC has discretion to deviate from the pro rata sharing of legal
1007 defense costs within a Member Sector in order to exempt from the cost sharing
1008 the Disputing Member complainants. Disputing Member complainants shall bear
1009 their own legal costs in pursuit of their claims against the PMC.

1010 **10.2.4.** The provisions of this Section 10.2 shall survive the termination of
1011 this Agreement or withdrawal or expulsion of a Member, who was an active
1012 Member at the time of the initiation of a dispute.

1013 **10.3. Disputes Between the PMC and Third Parties (Non-Members).**

1014 **10.3.1. Member Cooperation.** If an individual or entity that is not a
1015 Member brings a claim in any state or federal court or administrative proceeding
1016 against the PMC or any Member(s) challenging a PMC Decision or otherwise
1017 arising within the scope of this Agreement, the dispute shall be submitted to the
1018 Legal Subcommittee for review and to provide the PMC a recommendation(s) as
1019 to its suggested course of action in accordance with the provisions of Section
1020 8.4.3. Members will support, and cooperate with, to the extent reasonably
1021 practical and allowed by law, the Member(s) named in the dispute, and/or the
1022 PMC, in defending the actions of the PMC, which cooperation may involve, as
1023 applicable, intervention or interpleading in any formal proceeding relating to the
1024 dispute and/or joint defense of the dispute, retention of outside counsel to
1025 represent a joint defense and payment of legal fees and expenses incurred as a
1026 result of such joint defense.

1027 **10.3.2. Expenses Incurred to Defend and/or Resolve Disputes with Non-**
1028 **Members.** Any and all necessary expenses that may be incurred by the PMC in
1029 defending PMC Member(s) and/or the PMC as a whole against any adverse claim
1030 arising from a PMC Decision or otherwise arising within the scope of this
1031 Agreement, and in resolving any such claim or dispute, whether through a formal
1032 or informal proceeding, including, without limitation, any expenses related to the
1033 arbitration or the settlement of the dispute,³ will be shared among the 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.

1034 Sectors, as follows: The ETO Member Sector will be responsible for 66 percent
1035 of legal defense expenses, and all other Member Sectors, except the SRC
1036 Member Sector, will be responsible for the remaining 34 percent of such
1037 expenses. For the 66 percent of expenses assigned to the ETO Member Sector,
1038 the expenses will be shared pro rata among the Members in the sector, based
1039 upon the number of Members in the Sector. For the 34 percent of expenses
1040 assigned to the ITDO, TC and KIG Member Sectors, the expenses will be shared
1041 among the sectors pro rata, and then within each sector, the expenses will be
1042 divided pro rata among the Members of that sector, based upon the number of
1043 Members in the Sector.

1044 The obligations set forth in this Section 10.3 shall apply only to the extent that the
1045 dispute arises from a PMC Decision or otherwise within the scope of this
1046 Agreement and shall not impose an obligation upon any Member to cooperate
1047 and defend or pay for any expenses related to disputes that do not arise from a
1048 PMC Decision or otherwise within the scope of this Agreement. The PMC has
1049 discretion to deviate from the percentage split of legal defense costs shown above
1050 in situations in which a Member Sector is so sparsely populated at the time of the
1051 allocation such that the allocation would result in a substantially disproportionate
1052 and unfair burden on a single Member or Member Sector.

1053 **10.3.3.** The provisions of this Section 10.3 shall survive the termination of
1054 this Agreement or withdrawal or expulsion of a Member, who was an active
1055 Member at the time of the initiation of a dispute.

1056 **10.4. General Availability of Rights Granted in the Federal Power Act.** The
1057 dispute resolution process in this Section 10 is without prejudice to a Disputing
1058 Member's rights under Section 206 of the Federal Power Act to file a complaint with
1059 the FERC at any time.

1060 **10.5 Alleged Violations of Individual OATTs By Individual Members.**

1061 Allegations that any ETO Member violated its individual OATT in a manner other
1062 than pursuant to a PMC Decision or otherwise under this Agreement, shall be
1063 handled in accordance with the dispute resolution procedures in the applicable
1064 individual ETO Member's OATT or, if applicable, in some other manner as
1065 appropriate, and will not impact or concern the other Members.

1066 **11. LIMITATION OF LIABILITY; DAMAGES**

1067 **11.1.** This Agreement creates contractual rights and obligations solely between
1068 and among the Members. As between and among Members, specific performance
1069 shall be the sole remedy available to the PMC or any of its Members, and the PMC
1070 and its Members shall not be liable for monetary damages of any kind whatsoever,
1071 whether direct, compensatory, special, indirect, consequential, or punitive. In
1072 addition, nothing in this Agreement shall create any duty, liability, or standard of care
1073 whatsoever as to any third party. No third party shall have any rights whatsoever
1074 with respect to enforcement of any provision of this Agreement, and no monetary
1075 damages of any kind whatsoever, whether direct, compensatory, special, indirect,
1076 consequential, or punitive shall be available or awarded to any third party.

1077 **11.2.** In the event that, notwithstanding the fact that third parties lack any rights
1078 whatsoever under this Agreement, damages stemming from PMC or PMC-Member

1079 conduct arising under this Agreement are awarded to a third-party plaintiff by a court
1080 of competent jurisdiction, or other adjudicatory body, no Member is obligated to pay
1081 the legal liability adjudicated against another Member. There is no joint liability
1082 under this Agreement and each PMC Member is an individual obligor, liable for only
1083 its portion of the relevant obligation. This Agreement does not impose upon any
1084 Member the obligation to indemnify any other Member, and no Member is liable for
1085 another Member's own acts or omissions or conduct in performing its obligations
1086 under this Agreement.

1087 **12. MISCELLANEOUS**

1088 **12.1. Entire Agreement.** This Agreement constitutes and expresses the entire
1089 understanding among the Members with respect to the subject matter hereof, and
1090 supersedes all prior agreements and understandings, inducements, commitments or
1091 conditions, express or implied, oral or written.

1092 **12.2. Appendices and Exhibits.** The Appendices and Exhibits hereto together
1093 with all attachments referenced therein, are incorporated herein by reference and
1094 made a part of this Agreement.

1095 **12.3. Notices.** All notices, consents, waivers and other communications required
1096 or permitted by this Agreement to be given to another Member or to a Committee or
1097 Sub-Committee or designated recipient of the PMC will be in writing and will be
1098 deemed to have been given when (a) delivered to the other Member's business
1099 address personally, by messenger, by a nationally or internationally recognized
1100 overnight delivery service or otherwise, (b) sent to the other Member by facsimile, e-
1101 mail or other electronic transmission, with confirmation of transmission by the

1102 transmitting equipment; or (c) received or rejected by the other Member, if sent by
1103 certified mail, return receipt requested, in each case, addressed to the other Member
1104 at its business address, facsimile number or email address identified on the signature
1105 pages of this Agreement.

1106 **12.4. Amendments.** Neither this Agreement nor any provision hereof may be
1107 amended or modified other than by action of the PMC under the voting procedures
1108 set forth in this Agreement. This Agreement may be modified by an affirmative vote
1109 of the PMC pursuant to the provisions of Section 8.5 of this Agreement provided that
1110 the proposed modification has been presented for discussion at two consecutive PMC
1111 meetings prior to conducting the vote. At such time that a modification has been
1112 approved by the PMC, all Members will make reasonable efforts to execute the
1113 agreement as soon as possible, with all executions due within ninety (90) days of
1114 PMC approval of such modification; provided, however, that if a Member notifies
1115 the PMC Chair that it is withdrawing its participation in this Agreement pursuant to
1116 Section 5.6.1 or 5.6.8, such Member shall be under no obligation to execute the
1117 modified agreement. The effective date of modifications to the Agreement will be
1118 established so as to align with planning process budget cycles unless the urgency of
1119 the modification dictates otherwise. No individual Member may be bound by a
1120 modified version of this Agreement prior to having executed it.

1121 **12.5. Consistency with Laws and Regulations.** Nothing in this Agreement shall
1122 compel any Member to (i) violate federal, state or local statutes or regulations, tariffs,
1123 orders or other legal obligations; or (ii) in the case of a Governmental Authority or
1124 instrumentality, to exceed its statutory authority, as defined by any applicable

1125 statutes, regulations, or orders lawfully promulgated thereunder. If any provision of
1126 this Agreement is contrary to any obligation imposed on any Member by federal,
1127 state, or local law or regulation, to that extent it shall be inapplicable to that Member.
1128 No Member shall incur any liability by failing to comply with a provision of this
1129 Agreement that is inapplicable to it by reason of being contrary to any statutes,
1130 regulations or orders lawfully promulgated thereunder; provided, however, that such
1131 Member shall comply with the Agreement to the extent that applicable laws,
1132 regulations and orders lawfully promulgated thereunder permit it to do so.

1133 **12.6. Severability of Provisions.** The provisions of this Agreement are
1134 independent of and separable from each other. If any provision of this Agreement
1135 shall for any reason be held invalid or unenforceable, such invalidity or
1136 unenforceability shall not affect the validity or enforceability of any other provision
1137 hereof, but this Agreement shall be construed as if such invalid or unenforceable
1138 provision had never been contained herein.

1139 **12.7. Assignments and Successors.** No Member may assign any of its rights or
1140 delegate any of its duties or obligations under this Agreement, except that any
1141 Member may, without the consent of the other Members, assign its rights and
1142 delegate its duties and obligations under this Agreement to a successor to which all or
1143 substantially all of the assets of such Member shall be transferred or to an affiliate of
1144 the assigning Member for the purposes of a corporate restructuring, provided,
1145 however, that in each such case, the successor or affiliate is eligible for membership
1146 in the same Member Sector as the assignor under the governing membership criteria
1147 for that Member Sector and has executed this Agreement, and, if required, made all

1148 necessary filings in connection with any applicable regulatory approvals. Subject to
1149 the preceding sentence, this Agreement will apply to, be binding in all respects upon,
1150 and inure to the benefit of, the successors and permitted assigns of the Members.

1151 **12.8. Rules of Interpretation.** This Agreement, unless a clear contrary intention
1152 appears, shall be construed and interpreted as follows: (1) the singular number
1153 includes the plural number and vice versa; (2) reference to any person includes such
1154 person's successors and assigns but, in the case of a Member, only if such successors
1155 and assigns are permitted by this Agreement, and reference to a person in a particular
1156 capacity excludes such person in any other capacity or individually; (3) reference to
1157 any agreement (including this Agreement), document, instrument or tariff means
1158 such agreement, document, instrument, or tariff as amended or modified and in effect
1159 from time to time in accordance with the terms thereof and, if applicable, the terms
1160 hereof; (4) reference to any applicable laws and regulations means such applicable
1161 laws and regulations as amended, modified, codified, or reenacted, in whole or in
1162 part, and in effect from time to time, including, if applicable, rules and regulations
1163 promulgated thereunder; (5) unless expressly stated otherwise, reference to any
1164 Article, Section or Appendix means such Article, Section or Appendix to this
1165 Agreement; (6) "including" (and with correlative meaning "include") means
1166 including without limiting the generality of any description preceding such term; and
1167 (8) relative to the determination of any period of time, "from" means "from and
1168 including", "to" means "to but excluding" and "through" means "through and
1169 including".

1170 **12.9. Headings.** The descriptive headings of the various articles, sections, or
1171 appendices of this Agreement have been inserted for convenience of reference only
1172 and are of no significance in the interpretation or construction of this Agreement.

1173 **12.10. No Association, Joint Venture, Agency or Partnership.** This Agreement
1174 shall not be interpreted or construed to create an association, joint venture, agency
1175 relationship or partnership among the Members or to impose any partnership
1176 obligations or partnership liability upon any Member. The duties and obligations of
1177 the Members are several and not joint. Notwithstanding anything to the contrary in
1178 this Agreement, this Agreement shall at all times be conditioned upon the Members
1179 obtaining all regulatory approvals from the appropriate federal, state, and/or local
1180 regulatory authorities or agencies that each Member determines, in its sole discretion,
1181 to be required to enter into, to perform or consummate the activities contemplated
1182 hereunder.

1183 **12.11. No Third Party Beneficiaries.** Nothing expressed or referred to in this
1184 Agreement will be construed to give any person other than the Members any legal or
1185 equitable right, remedy or claim under or with respect to this Agreement or any
1186 provision of this Agreement, except such rights as shall inure to a successor or
1187 permitted assignee pursuant to Section 12.7 (Assignments and Successors).

1188 **12.12. No Implied Waivers.** The failure of a Member to insist upon or enforce
1189 strict performance of any of the specific provisions of this Agreement at any time
1190 shall not be construed as a waiver or relinquishment to any extent of such Member's
1191 right to assert or rely upon any such provisions, rights, or remedies in that or any

1192 other instance, or as a waiver to any extent of any specific provision of this
1193 Agreement; rather the same shall be and remain in full force and effect.

1194 **12.13. Collective Effort.** Preparation of this Agreement has been a collective
1195 effort of the Members and the resulting document shall not be construed more
1196 severely against one of the Members than against the others and no provision in this
1197 Agreement is to be interpreted for or against any Member because that Member or its
1198 counsel drafted such provision. Each Member acknowledges that in executing this
1199 Agreement it has relied solely on its own judgment, belief and knowledge, and such
1200 advice as it may have received from its own counsel, and it has not been influenced
1201 by any representation or statement made by the other Members or their counsel not
1202 contained in this Agreement.

1203 **12.14. Governing Law.** This Agreement shall be governed by, and construed in
1204 accordance with, the laws of the State of Arizona, except to the extent preempted by
1205 federal law, and without regard to the State of Arizona's conflicts of law principles.

1206 **12.14.1 FERC Role in Dispute Resolution.** Disputes directly relating to the
1207 Members' compliance with their OATTs that are not resolved in the Arizona state
1208 appellate process and all disputes relating to matters that fall within the exclusive
1209 jurisdiction of FERC shall be reviewed at FERC pursuant to the Federal Power
1210 Act if such review is sought by a Member.

1211 **12.15. Conflicts.** In the event of any conflict between provisions of this
1212 Agreement and any policies, procedures, governing or guiding documents developed
1213 by the PMC and its committees and workgroups, the terms of this Agreement shall
1214 prevail. Further, the Parties acknowledge that this Agreement may be subject to

1215 filing, review, approval and subsequent modifications directed by competent
1216 authorities with jurisdiction over any one or more of the Parties. If any such
1217 modifications directed by a competent authority with jurisdiction over any one or
1218 more of the Parties conflicts with the current version of this Agreement, the Parties
1219 will seek to amend the Agreement pursuant to Section 12.4.

1220 **12.16. Authority.** This Agreement is a legal, valid and binding obligation of such
1221 Member, enforceable against such Member in accordance with its terms. By signing
1222 this Agreement, each Member signifies that it has the right, power and authority to
1223 enter into this Agreement, to become a Member hereto and to perform its obligations
1224 hereunder.

1225 **12.17. Counterparts.** This Agreement may be executed in one or more
1226 counterparts, each of which will be deemed to be an original copy of this Agreement
1227 and all of which, when taken together, will be deemed to constitute one and the same
1228 agreement. The exchange of copies of this Agreement and of signature pages by
1229 facsimile or email shall constitute effective execution and delivery of this Agreement
1230 as to the Members and may be used in lieu of the original Agreement for all purposes.
1231 Signatures of the Members transmitted by facsimile or email shall be deemed to be
1232 their original signatures for all purposes.

1233 **13. PARTICIPATION BY THE GOVERNMENT OF THE UNITED STATES**

1234 **13.1. Subject to Acts of Congress.** The performance by any Federal Member of its
1235 obligations contained in this Agreement, including but not limited to Section 10, shall
1236 be subject to applicable Federal laws and regulations, including, but not limited to,
1237 Acts of Congress approved June 17, 1902 (32 Stat. 388), December 22, 1944 (58

1238 Stat. 887), August 4, 1977 (91 Stat. 565), and Acts amendatory or supplementary to
1239 the foregoing Acts, the National Environmental Policy Act (NEPA), the Anti-
1240 Deficiency Act, 31 U.S.C. 1341, the Freedom of Information Act, the Federal Tort
1241 Claims Act, 28 U.S.C. 1346 and 2671-2680, and the Debt Collection Act, 31 U.S.C.
1242 3701 *et seq.*

1243 **13.2. Contingent Upon Appropriations.** Where activities provided for in the
1244 contract extend beyond the current fiscal year, continued expenditures by the Federal
1245 Members are contingent upon Congress making the necessary appropriations
1246 required for the continued performance of the Federal Member's obligations under
1247 the contract. In case such appropriation is not made, each other Member hereby
1248 releases the Federal Member from its contractual obligations and from all liability
1249 due to the failure of Congress to make such appropriation.

1250 **13.3. No Expansion Of Jurisdiction, Waiver Of Defenses, Liability For**
1251 **Penalties, Or Inconsistent Obligations.** By entering into this Agreement, Federal
1252 Member has not waived or conceded any defense it may have, including sovereign
1253 immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any
1254 action against it by an Enforcement Authority, nor has Federal Member accepted any
1255 liability, responsibility, or obligation to pay any civil monetary penalties or fines to
1256 which it would not have been subject in the absence of this Agreement that may be
1257 imposed by an Enforcement Authority. Enforcement Authority in this Agreement
1258 means the Federal Energy Regulatory Commission (FERC), Electric Reliability
1259 Organization (ERO), or Regional Entities with enforcement authority pursuant to a

1260 delegation from an ERO or FERC for the purpose of proposing and enforcing
1261 reliability standards.

1262 **IN WITNESS WHEREOF**, the Members have executed this Agreement in duplicate
1263 originals, each of which shall constitute and be an original effective Agreement between
1264 the Members.
1265

MEMBER SECTOR NOTIFICATION

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

MEMBER SECTOR ELECTION (check one)

- Enrolled Transmission Owner
- 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

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By:

Signature

Print Name

Title

Date