



Nicholas Brown
Senior Vice President & Corporate Secretary

December 4, 2001

Mr. Gene Argo	Ms. Trudy Harper	Mr. Harry Skilton
Ms. Kim Casey	Mr. Quentin Jackson	Mr. Richard Spring
Mr. David Christiano	Mr. John Marschewski	Mr. Al Strecker
Mr. Roland "Harry" Dawson	Mr. Tom McDaniel	Mr. Larry Sur
Mr. Michael A. Deihl	Mr. John E. Oxendine	Mr. Richard Verret
Mr. Dick Dixon	Mr. Stephen Parr	Mr. Gary Voigt
Mr. Jim Eckelberger	Mr. J. M. Shafer	

Hello!

Enclosed is an agenda and background materials for our upcoming SPP Board of Directors Meeting and Annual Meeting of Members Wednesday, December 12, at The Westin Hotel, Oklahoma City, Oklahoma. The meeting will be in the 18 and 19th Century Room from 8:00 a.m. until 3:00 p.m., with a reception on Tuesday evening from 5:30 to 7:00 p.m. in the 20th Century Room.

As always, please call with any questions or comments. I look forward to seeing you all again!

Take Care,

A handwritten signature in black ink, appearing to read 'Nick', written in a cursive style.

NAB:cr
Enclosure
cc: SPP Membership (via email)

**Southwest Power Pool
BOARD OF DIRECTORS MEETING & ANNUAL MEETING OF MEMBERS
2001 Fall Meeting – The Westin Hotel – Oklahoma City, Oklahoma
December 12, 2001**

- A G E N D A -

TUESDAY, DECEMBER 11

5:30 – 7:00 p.m. – Reception – 20th Century Room

WEDNESDAY, DECEMBER 12

7 – 8 a.m. – Continental Breakfast- 18th and 19th Century Room

8 a.m. – 3 p.m. – Meetings – 18th and 19th Century Room

Annual Meeting Of Members

1. Administrative Items Mr. Gary Voigt
2. President’s Report..... Mr. John Marschewski
3. Secretary’s Report..... Mr. Nick Brown
4. Operations Report Mr. Carl Monroe
5. Financial Report Mr. Tom Dunn
6. Nominating Task Force Recommendations Mr. David Christiano

Board of Directors Meeting

1. Administrative Items Mr. Gary Voigt
2. Engineering & Operating Committee Recommendations..... Mr. Mel Perkins
3. Finance Working Group Recommendations Ms. Trudy Harper
4. Staff Recommendation on Member Termination..... Mr. Nick Brown
5. Election of Chair & Vice Chair Mr. David Christiano
6. SPP/MISO Consolidation Report..... Mr. John Marschewski
7. Executive Session on Personnel Issues

**Southwest Power Pool
MEETING OF MEMBERS
Hyatt Regency - Wichita, Kansas
November 7, 2000**

Agenda Item 1 – Administrative Items

SPP Board of Directors Chair, Mr. Gary Voigt, called the meeting to order at 8:01 a.m. (Agenda – Attachment 1) and called for a round of introductions (Attendance List – Attachment 2). There were 32 people in attendance representing 17 members and 1 state regulatory agency. The secretary received 3 proxy statements (Proxies – Attachment 3). Mr. Voigt asked if there were any necessary corrections to the minutes of November 9, 1999 and April 25 – 26, 2000 Special Meeting of Members (11/99 and 4/00 Minutes – Attachment 4). It was moved and seconded the minutes be approved as distributed. This motion passed unopposed.

Agenda Item 2 – President’s Report

Mr. Voigt called on John Marschewski for a report on SPP activities (President’s Report – Attachment 5). Mr. Marschewski reported on membership changes, SPP staffing, budgets of 2000 and 2001, NERC activities and SPP challenges for 2001.

Agenda Item 3 – 2000 Organizational Overview

Mr. Nick Brown presented an overview of organizational activities for 2000 (Organization Report – Attachment 6). Mr. Brown noted changes in the Board of Directors structure, RTO activities and other regulatory activities, and a memorandum of understanding with Entergy on a transco, including Entergy, operating under the SPP RTO.

Agenda Item 4 – 2000 Operational Overview

Mr. Voigt asked Mr. Carl Monroe to report on operations for 2000 (Operations Report – Attachment 7). Mr. Monroe reported that operational challengers are on the rise and that May and September are more and more becoming problem months due to maintenance cycles.

Agenda Item 5 – SPP Board of Directors Report

Mr. Voigt reviewed actions of the Board of Directors meeting held November 6, 2000. The annual budget for 2001 was passed; the Regional Tariff Working Group was given an assignment to consider formula rates, revenue recovery, and functionalization of facilities; and in executive session key staff compensation was formalized.

Agenda Item 6 – NERC Board of Trustees Report

Mr. Tom Grennan reported surviving summer in fairly good shape. Mr. Grennan stated that NERC/NAERO transition was moving forward with three new areas involving governance, funding and compliance. He also stated the 2000-2009 NERC Reliability Assessment Report would be mailed soon. Mr. Grennan asked that people take time to read this report as it is an excellent source of information.

SPP Meeting of Members
November 7, 2000

Agenda Item 7 – Nominating Task Force Report

Mr. Voigt asked David Christiano, chair of the Nominating Task Force, to report on the group's activities. Mr. Christiano reported he had received a letter of resignation from Myron McKinney, Empire District Electric Co. Mr. Christiano moved to replace Mr. McKinney with Richard Spring, Kansas City Power and Light, as nominated by the Nominating Task Force (NTF) to finish Mr. McKinney's term as transmission owner through December 2002. Richard Verret seconded and the motion passed unopposed. Mr. Voigt called attention to the ballot of nominations as presented from the Nominating Task Force and opened the floor for additional nominees. Hearing no additional nominees, Mr. Voigt closed the nomination process and asked each member to mark their ballots. Mr. Nick Brown then collected and counted votes. Mr. Brown reported that nominees had been unanimously elected (Ballots – Attachment 8).

Adjournment

With no further business, Mr. Voigt adjourned the Meeting of Members at 9:50 a.m.

Nicholas A. Brown, Secretary

**Southwest Power Pool
NOMINATING TASK FORCE
Report to the Board of Directors
December 12, 2001**

Background

Members of the SPP Board of Directors serve staggered three-year terms with seven terms expiring each year. The current roster with terms is as follows:

Transmission Owners (IOU)

Dick Dixon for Tom Grennan (WERE) - 3 year
Richard Verret (AEP) - 3 year
Al Strecker (OGE) - 1 year
Richard Spring - 2 year
(Non-IOU)
J. M. Shafer (WEFA) - 1 year
Gene Argo (MIDW) - 1 year
Mike Deihl (SWPA) - 2 year

Transmission Users (Cooperative)

Gary Voigt (AREC) - 3 year
Stephen Parr (KEPCO) - 1 year
(Municipal)
Harry Dawson (OMPA) - 3 year
David Christiano (SPRM) - 2 year
(IPP/Marketer/Other)
Trudy Harper (Tenaska) - 1 year
Kim Casey (Dynergy) - 2 year
Vacant - 3 year

Non-Stakeholders

John Oxendine - 2 year
Tom McDaniel - 2 year
Jim Eckelberger - 1 year
Quinten Jackson - 1 year
Harry Skilton - 3 year
Larry Sur - 3 year

Per SPP's Bylaws, the Nominating Task Force is responsible for nominating to the membership candidates equal in number to the board positions to be filled (positions with expiring terms, any vacancies and temporary appointments) and for nominating to the Board of Directors a chair and vice-chair for a two-year term. Nominations to the membership must be made for i.) the seven positions with 1 year terms, ii.) the vacant IPP/Marketer/Other position in the Transmission User sector, and iii.) for the permanent filling of the unexpired term of Tom Grennan, which was temporarily filled by Dick Dixon. Transmission Owners are to nominate Owners, Transmission Users are to nominate

Users and all representatives on the Nominating Task Force are to nominate the non-stakeholders.

Recommendations

The Nominating Task Force nominates all seven persons with expiring terms and nominates Mr. Dick Dixon for the permanent replacement of the unexpired term of Tom Grennan for consideration of the membership in electing directors to the SPP Board of Directors. These nominations are shown on the attached election ballot.

Approved: Nominating Task Force December 3, 2001

Action Requested: Approve Recommendation

**Southwest Power Pool
ANNUAL MEETING OF MEMBERS
December 12, 2001**

**Ballot for
Board of Directors**

Each SPP Transmission Owning Member should vote for 3 nominees:

Recommended by Nominating Task Force:

- Gene Argo, Midwest Energy (IOU)
- J. M. Shafer, Western Farmers (Cooperative)
- Al Strecker, OG+E Electric Services (IOU)

Additional Nominees:

- _____
- _____
- _____

Each SPP Transmission Using Member should vote for 2 nominees:

Recommended by Nominating Task Force:

- Stephen Parr, KEPCo. (Municipal)
- Trudy Harper, Tenaska (Marketer)

Additional Nominees:

- _____
- _____

Each SPP Member should vote for 2 Non-Stakeholder nominees:

Recommended by Nominating Task Force:

- Jim Eckelberger
- Quentin Jackson

Additional Nominees:

- _____
- _____

MEMBER: _____

REPRESENTATIVE'S SIGNATURE: _____

**Southwest Power Pool
BOARD OF DIRECTORS MEETING
Hyatt Hotel – Dallas/Ft. Worth Airport
October 17, 2001**

- Summary of Action Items -

1. Approved minutes of the August 13, 2001 Board of Directors meeting as presented.
2. Approved recommendation of SPP officers to grant them authority to prepare documents necessary to effect the merger of SPP with Midwest ISO.
3. Directed Mr. Nick Brown to ascertain scope and member interest in participating on a task force to investigate formation of a Transco for SPP members.
4. Approved Engineering and Operating Committee recommendations to modify SPP Criteria changes: Criteria 5, Appendix 7; Criteria 7.1, 7.2, 7.4, 7.5, 7.6, 7.7, and 3.5; Criteria 7.8; Criteria 8; Criteria 12.

**Southwest Power Pool
BOARD OF DIRECTORS MEETING
Hyatt Hotel – Dallas/Ft. Worth Airport
October 17, 2001**

Agenda Items 1 & 2 – Employee Benefits Working Group Report & SPP/MISO Governance Group Report

SPP Chair Mr. Gary Voigt called the meeting to order at 8:09 a.m. in executive sessions to discuss personnel issues and pending legal matters.

Agenda Item 3 – Administrative Items

At 10:14 a.m., Mr. Voigt reconvened the meeting in open session. The following directors were in attendance or represented by proxy:

- Mr. Nick Akins, proxy for Mr. Richard Verret, American Electric Power;
- Mr. Gene Argo, Midwest Energy, Inc.;
- Ms. Kim Casey, Dynegy Marketing and Trade;
- Mr. Harry Dawson, OK Municipal Power Authority;
- Mr. Jim Eckelberger, non-stakeholder director;
- Mr. Tom Grennan, Western Resources;
- Ms. Trudy Harper, Tenaska Power Services;
- Mr. Quentin Jackson, and proxy for Mr. Harry Skilton, non-stakeholder directors;
- Mr. John Marschewski, Southwest Power Pool, Inc., and proxy for Mr. Tom Grennan, Western Resources;
- Mr. Tom McDaniel, non-stakeholder director;
- Mr. John Oxendine, non-stakeholder director;
- Mr. Gene Reeves, proxy for Mr. Michael Deihl, Southwestern Power Administration;
- Mr. J. M. Shafer, Western Farmers Electric Cooperative, and proxy for Mr. Stephen Parr, KS Electric Power Cooperative;
- Mr. Richard Spring, Kansas City Power & Light;
- Mr. John Stephens, proxy for Mr. David Christiano, City Utilities of Springfield, MO;
- Mr. Al Strecker, OG+E;
- Mr. Larry Sur, non-stakeholder director; and
- Mr. Gary Voigt, Chair, Arkansas Electric Cooperative Corp.

There were 34 persons in attendance representing 15 members, 2 guests and 1 regulatory agency (Attendance List – Attachment 1). The Secretary received 6 proxy statements (Proxies – Attachment 2). Mr. Voigt referred to agenda item 3 (Agenda – Attachment 3) and asked for any necessary modifications to draft minutes of the August 13, 2001 meeting or a motion for approval (8/13/01 Meeting Minutes – Attachment 4). Mr. Larry Sur moved that the minutes be approved as presented. Mr. Richard Spring seconded this motion, which passed unopposed.

Agenda Item 4 – Southwest Power Pool/Midwest ISO Merger

Mr. John Marschewski provided background comments on the investigation process related to a merger of SPP and the Midwest ISO and then asked Mr. Nick Brown for a detailed report. Mr. Brown outlined work to date by SPP and Midwest ISO (MISO) on the due

diligence review of the proposed merger and referred to and summarized an initial staff report distributed on September 20, 2001 (SPP/MISO Merger Report – Attachment 5) and also a memorandum from SPP and MISO presidents describing the business structure for the combination (Merger Letter – Attachment 6). Mr. Brown described alternatives with other entities and the business rationale for merging with MISO. Mr. Brown summarized the findings of the business and financial reviews as indicating that the combined organizations will offer greater efficiency and effectiveness. Mr. Brown stated that SPP had employed the services of Wright, Lindsey, & Jennings to handle legal aspects of the merger and introduced Mr. John Tisdale and Mr. Walter May. Mr. Tisdale explained that many documents had been exchanged and reviewed in the due diligence process between SPP and MISO and answered questions concerning these issues.

Mr. Brown stated that managements were recommending a combination structure with the following attributes:

- Transfer of SPP assets and liabilities to MISO;
- MISO governance, management, and membership agreement reconfigured with new corporate name;
- SPP remaining as reliability council with purchase of services from new company at cost;
- SPP members to be reimbursed for their contribution to SPP start-up costs by new company; and
- Transcos continue to be allowed as previously agreed.

Mr. Brown then presented the following SPP officers' recommendation:

SPP officers recommend that the Board of Directors grant them the authority to prepare documents necessary to effect the merger of SPP with the Midwest ISO. Final approval of the transaction will be requested after the proposed documents have been prepared and reviewed by the SPP Board of Directors.

Ms. Trudy Harper moved to accept this recommendation. Mr. Tom McDaniel seconded the motion, which passed with one abstention by Mr. Nick Akins (AEP). Ms. Harper requested that proposed documents be distributed to members for their information and comment prior to final Board consideration. Ms. Kim Casey requested that SPP recognize the overlap of reliability, security, and tariff and facilitate a smooth distribution between the three responsibilities to reduce the potential for conflict and duplication.

Mr. Harry Dawson expressed a desire to set up a study group to determine interest in forming a transco for SPP members. After some discussion, Mr. Voigt asked that Mr. Brown coordinate this activity.

Agenda Item 5 – Engineering & Operating Committee Report

Mr. Carl Monroe (SPP) presented the Engineering & Operating Committee report. Mr. Monroe reviewed and discussed six recommended modifications to SPP criteria (Criteria 5, Appendix 7; Criteria 7.1, 7.2, 7.4, 7.5, 7.6, 7.7, and 3.5; Criteria 7.8; Criteria 8; Criteria 12) as distributed in the background material for Board of Directors consideration (EOC recommendations – Attachment 7). Following discussion, Mr. John Oxendine moved to

accept the recommended changes. Mr. Harry Dawson seconded the motion, which passed unopposed.

Agenda Item 4 – COSMOS System Project Management Report

Mr. Carl Monroe also presented the COSMOS System Project Management Report. Mr. Monroe referred to a slide presentation and displayed posters explaining this project and its status (COSMOS System Project Management Report – Attachment 8). To date \$20 million has been expended with another \$20 million committed over the next 5 years. Mr. Monroe asked for interested parties to participate in a mini market test of the COSMOS system and stated a recommendation for full implementation of this project may be ready by the next Board of Directors meeting.

Future Meeting and Adjournment

Mr. Marschewski suggested a rescheduling of the November Board of Directors and Annual Meeting of Members to allow time for papers to be drawn up for the SPP/MISO merger as approved. A general consensus was reached to hold these meetings in a one-day format in Oklahoma City on either December 11 or 12, 2001.

With no further business, Mr. Voigt adjourned the meeting at 11.40 p.m. and thanked everyone for their participation.

Nicholas A. Brown, Corporate Secretary

**Southwest Power Pool
BOARD OF DIRECTORS
2001 Fall Meeting**

Future Meeting Schedule

Dates and locations for the 2002 Board of Directors meetings:

Tuesday, February 19, 2002	Dallas, Texas
Tuesday, May 7, 2002	Kansas City, Missouri
Tuesday, July 16, 2002	Dallas, Texas
Tuesday and Wednesday, November 12-13, 2002	New Orleans, Louisiana

Southwest Power Pool
ENGINEERING AND OPERATING COMMITTEE
Recommendation to the Board of Directors
December 11-12, 2001

Engineering and Operating Committee is recommending Criteria changes in the following sections:

1. Criteria 4
2. Criteria 5.2.4.1
3. Criteria 7.3.1.3
4. Criteria 9
5. Criteria 10

**Southwest Power Pool
ENGINEERING AND OPERATING COMMITTEE
Recommendation to the Board of Directors
December 11-12, 2001**

**SPP Criteria 4
ATC/TRM/CBM Determination**

Background

Several changes have occurred which impact Regional Transmission Planning and the interconnected reliability councils. As a result, NERC developed planning standards to establish a unified means of ensuring the interconnected system's security. In response, the SPP Engineering and Operating Committee (EOC) formed the Planning Standards Task Force to review current SPP Criteria for compliance with these standards. At the October 1998 EOC meeting, the EOC approved recommendations in a report titled SPP Review and Evaluation of NERC Planning Standards. One recommendation of the report was a review of the SPP Criteria 4 for ATC/TTC calculation and determination process. The EOC assigned this review to the Transmission Assessment Working Group (TAWG). In response, the Criteria 4 Task Force, formed under the TAWG, began to review NERC planning standards in coordination with the current FERC approved SPP Open Access Transmission Tariff (OATT) processes. The Criteria 4 Task Force then began work converting the existing path based ATC determination method outlined in the existing Criteria 4 to a flowgate/constraint based ATC calculation methodology.

Recent Activity

An update on Criteria 4 was presented to the EOC at the March 2001 meeting with information that the TAWG anticipated completion of the criteria by March 29th, 2001. At this meeting, the EOC commissioned that all criteria be revisited. Since that time the Criteria 4 Task Force completed their work and disbanded passing the new criteria language to the TAWG for working group approval. With minor changes, both the Transmission Assessment Working Group and the Security Working Group reviewed and approved the document for EOC acceptance.

Analysis

SPP OATT:

The Criteria 4 Task Force reviewed the most current FERC approved SPP OATT document to identify any tariff related ATC coordination and determination requirements for both the short term and long term horizons. Operational and business practices to facilitate the SPP OATT were reflected in the new criteria language.

NERC Compliance Standards:

NERC 1.E. standards were examined for regional calculation and determination requirements of ATC, TTC, TRM and CBM practices. Criteria language was crafted to capture all current practices on both the operational and planning

horizons. With the exception of a TTC methodology, (FERC waiver based on utilization of a constraint based approach to ATC determination) documentation of current practices that address all NERC 1.E. requirements were clearly indicated citing the appropriate sections of Criteria 4. On January 15, 2001, the SPP Compliance Manager submitted the draft criteria to the NERC ATC Working Group for review and comment. Comments received from the NERC working group were addressed and changes were submitted on February 26, 2001 in a cooperative manner, even though, due to unaccounted circumstances, the ATCWG failed to receive this draft. However, the TAWG is confident the final approved draft addresses all issues identified by the NERC ATC Working Group and will be submitted at the next NERC compliance submittal. The TAWG understands that any future changes to NERC 1.E. standards such as CBM and TRM calculations, can be addressed at that time with recommended changes to criteria for the purpose of NERC compliance.

Conclusion

The Criteria 4 Task Force developed the attached document from review of the latest official NERC 1.E. standards and SPP Open Access Transmission Tariff practices on ATC/TTC/TRM/CBM calculations. The TAWG has determined the Criteria 4 Task Force has made every effort to accurately reflect current ATC/TRM/CBM practices in relation to the SPP Open Access Transmission Tariff and NERC 1.E. compliance standards. Any changes to NERC 1E compliance standards may be addressed when they become official.

Recommendation

The Engineering and Operating Committee requests the recommended Criteria 4 language be incorporated as a part of the SPP Criteria.

Approved

Transmission Assessment Working Group
Security Working Group
Engineering and Operating Committee

June 2001
June 2001
October 2001

Action Requested

Approve the attached SPP Criteria 4 as recommended by the TAWG

Attachments:

SPP Criteria 4



Southwest Power Pool, Inc.

**TAWG Criterion 4 Task Force
CRITERION 4 UPDATE**

TAWG/SWG APPROVED, 6-6-2001

MAINTAINED BY
SOUTHWEST POWER POOL
TRANSMISSION ASSESSMENT WORKING GROUP

PUBLISHED: pending approvals
LATEST REVISION: November 1998

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4.0 REGIONAL CALCULATION OF AVAILABLE TRANSFER CAPABILITY

SPP takes a regional approach in the determination of Available Transfer Capability (ATC). The regional approach calls for SPP to evaluate the inter-area transfer capability of its Transmission Owners. This approach provides a high level of coordination between ATC reported by SPP and Transmission Owners on SPP Open Access Same-time Information Network (OASIS) nodes. Likewise, when Transmission Owners calculate ATC, they are responsible to coordinate the ATC between their areas. If there is a dispute concerning the ATC, the SPP Transmission Assessment Working Group (TAWG) will act as the technical body to determine the ATC to be reported.

This Criteria provides Transmission Owners and the SPP Transmission Provider flexibility to revise the ATC as needed for changes in operating conditions, while providing for unique modeling parameters of the areas. The SPP Transmission Provider calculations do not preclude any studies made by Transmission Owners in accordance with their individual tariffs, which may contain specific methodologies for evaluating transmission service requests.

Transfer capabilities are calculated for two different commercial business applications; a) for use as default values for Transmission Owners to post on their OASIS node for business under their transmission tariffs and b) for use by SPP in administering the SPP Open Access Transmission Tariff (SPP OATT).

The SPP utilizes a “constrained element” approach in determining ATC. This approach is referred to as a Flowgate ATC methodology. Constrained facilities, termed “Flowgates”, used in this approach are identified primarily from a non-simultaneous transfer study using standard incremental transfer capability techniques that recognize thermal, voltage and contractual limitations. Stability limitations are studied as needed. Flowgates serve as proxies for the transmission network and are used to study system response to transfers and contingencies. Using Flowgates with pre-determined ratings, this process is able to evaluate the ATC of specific paths on a constrained element basis (Flowgate basis) while considering the simultaneous impact of existing transactions.

The calculation of ATC is a very complex and dynamic procedure. SPP realizes that there are many technical and policy issues concerning the calculation of ATC that will evolve with industry changes. Therefore, the SPP Security Working Group and the SPP Transmission Assessment Working Group will have the joint authority to modify the implementation of this Section of the Criteria based on experience and improvements in technology and data coordination. Any changes made by these groups will be subject to formal approval as outlined in the SPP By-laws at the first practical opportunity.

4.1 DEFINITIONS

4.1.1 Base Loading, Firm and Non-Firm (FBL & NFBL)

The determined loading on a Flowgate resulting from the net effect of modeled existing transmission service commitments for the purpose of serving firm network load and impacts from existing OATT OASIS commitments.

4.1.2 Capacity Benefit Margin

The amount of Flowgate capacity reserved by load serving entities to ensure access to generation from interconnected systems to meet generation reliability requirements.

4.1.3 Contractual Limit

Contractual arrangements between Transmission Providers that define transfer capability between the two.

4.1.4 Critical Contingency

Any generation or transmission facility that, when outaged, is deemed to have an adverse impact on the reliability of the transmission network.

4.1.5 Designated Network Resources (DNR)

Any designated generation resource that can be called upon at anytime for the purpose of serving network load on a non-interruptible basis. The designated generation resource must be owned, purchased or leased by the owner of the network load.

4.1.6 Emergency Voltage Limits

The operating voltage range on the interconnected system that is acceptable for the time sufficient for system adjustments to be made following a Critical Contingency.

4.1.7 Firm Available Transfer Capability (FATC)

The determined transfer capability available for firm Transmission Service as defined by the FERC pro forma Open Access Transmission Tariff (OATT) or any direction of interest on a transmission network between generation groups and/or system load for which commercial service may be desired.

4.1.8 First Contingency Incremental Transfer Capability (FCITC)

NERC Transmission Transfer Capability, reference document (May 1995) defines FCITC as:

"The amount of power, incremental and above normal base transfers, that can be transferred over the interconnected transmission systems in a reliable manner based on all of the following conditions:

1. For the existing or planned system configuration, and with normal (pre-contingency) operating procedures in effect, all facility loadings are within normal ratings and all voltages are within normal limits,
2. The electric systems are capable of absorbing the dynamic power swings, and remaining stable, following a disturbance that results in the loss of any single electric system element, such as a transmission circuit, transformer or generating unit, and,
3. After the dynamic power swings subside following a disturbance that results in the loss of any single electric system element as described in 2 above, and after the operation of any automatic operating systems, but before any post-contingency operator-initiated system adjustments are implemented, all transmission facilities loadings are within emergency ratings and all voltages are within emergency limits."

4.1.9 Flowgate

A selected transmission element or group of elements acting as proxy for the transmission network representing potential thermal, voltage, stability and contractual system constraints to power transfer. The process of determining the reliability issues for which a Flowgate is representative of and by which a Flowgate is established is outlined in the Flowgate Determination section.

4.1.10 Line Outage Distribution Factor (LODF)

The percent of the power flowing across the contingency facility that transfers over the monitored facility when the contingency facility is switched out of service.

4.1.11 Local Area Problem

A Transmission Owner may declare a facility under its control a Local Area Problem if it is overloaded in either the base case or contingency case prior to the transfer. If a

member declares a facility a Local Area Problem, the member may neither deny transmission service nor request NERC Transmission Loading Relief for that defined condition.

4.1.12 Monitored Facilities

Any transmission facility that is checked for predefined transmission limitations.

4.1.13 Non-firm Available Transfer Capability (NFATC)

The determined transfer capability available for sale for non-firm Transmission Service as defined by the NERC pro forma Open Access Transmission Tariff for any direction of interest on a transmission network between generation groups and/or system load for which commercial service may be desired.

4.1.14 Normal Voltage Limits

The operating voltage range on the interconnected system that is acceptable on a sustained basis.

4.1.15 Open Access Transmission Tariff (OATT)

FERC approved Pro-Forma Open Access Transmission Tariff.

4.1.16 Operating Horizon

Time frame for which Hourly transmission service is offered. The rolling time frame is twelve to 36 hours with a 12 noon threshold. It includes the current day, and after 12 noon, the remainder of the current day and all hours of the following day.

4.1.17 Operating Procedure

Any policy, practice or system adjustment that may be automatically implemented, or manually implemented by the system operator within a specified time frame, to maintain the operational integrity of the interconnected electric systems. If an Operating Procedure is submitted to the SPP in writing and states that it is an unconditional action to implement the procedure without regard to economic impacts or existing transfers, then the Operating Procedure will be used to allow transfers to a higher level.

4.1.18 Outage Transfer Distribution Factor (OTDF)

The percentage of a power transfer that flows through the monitored facility for a particular transfer when the contingency facility is switched out of service.

4.1.19 Participation Factor

The percentage of the total power adjustment that a participation point will contribute when simulating a transfer.

4.1.20 Participation Points

Specified generators that will have their power output adjusted to simulate a transfer.

4.1.21 Planning Horizon

Time frame beyond which Hourly transmission service is offered.

4.1.22 Power Transfer Distribution Factor (PTDF)

The percentage of power transfer flowing through a facility or a set of facilities for a particular transfer when there are no contingencies.

4.1.23 Power Transfer Voltage Response Factor (PTVF)

The per unit amount that a facility's voltage changes due to a particular transfer level.

4.1.24 SPP Open Access Transmission Tariff (SPP OATT)

The Southwest Power Pool Regional FERC approved Open Access Transmission Tariff

4.1.25 Transfer Distribution Factor (TDF)

A general term, which may refer to either PTDF or OTDF – The TDF represents the relationship between the participation adjustment of two areas and the Flowgates within the system.

4.1.26 Transfer Test Level

The amount of power that will be transferred to determine facility TDFs for use in DC linear analysis.

4.1.27 Transmission Owner (TO)

An entity that owns transmission facilities which are operated under a FERC approved OATT.

4.1.28 Transmission Provider (TP)

An entity responsible for administering a transmission tariff. In the case of the SPP OATT, SPP is the Transmission Provider. An SPP member may be its own Transmission Provider if the member continues to sell transmission service under the terms of its own tariff.

4.1.29 Transmission User (TU)

Any entities that are parties to transactions under appropriate tariffs.

4.1.30 Transmission Reliability Margin (TRM)

The amount of Flowgate capacity necessary to ensure that the interconnected transmission network is secure under a reasonable range of uncertainties in system conditions.

4.1.31 TRM multipliers (a & b)

“a”-multiplier; a factor between 0 and 1 indicating the amount of TRM not available for non-firm use during the Planning Horizon

“b”-multiplier; a factor between 0 and 1 indicating the amount of TRM not available for non-firm use during the Operating Horizon

4.2 CONCEPTS

4.2.1 Transfer Capability

Transfer capability is the measure of the ability of the interconnected electric systems to reliably move or transfer power from one area to another over all transmission circuits (or paths) between those areas under specified system conditions. The units of transfer capability are in terms of electric power, generally expressed in megawatts (MW).

Transfer capability is also directional in nature. That is, the transfer capability from area A to area B is not generally equal to the transfer capability from area B to area A.

Some major points concerning transfer capability analysis are briefly outlined below:

1. **System Conditions** - Base system conditions are identified and modeled for the period being analyzed, including projected customer demand, generation dispatch, system configuration and base reserved and scheduled transfers.
2. **Critical Contingencies** - During transfer capability studies, both generation and transmission system contingencies are evaluated to determine which facility outages are most restrictive to the transfer being analyzed.
3. **System Limits** - The transfer capability of the transmission network can be limited by thermal, voltage, stability or contractual considerations.

Thermal and voltage transfer limits can be determined by calculating the First Contingency Incremental Transfer Capability. Stability studies may be performed by the Transmission Owners at their discretion. Any known stability limits, which are determined on a simultaneous basis, and all contractual limits will be supplied by each Transmission Owner in writing to the Transmission Provider and the TAWG.

4.2.2 Available Transfer Capability

NERC Available Transfer Capability Definitions and Determinations, reference document (June 1996) states: "Available Transfer Capability (ATC) is a measure of the transfer capability remaining in the physical transmission network for further commercial activity over and above already committed uses."

SPP determines ATC as a function of the most limiting Flowgate of the path of interest. How limiting a Flowgate is to a path is based on two aspects: (1) The determined firm or non-firm Available Flowgate Capacity (FAFC or NFAFC) for that Flowgate, and (2) the TDF for which that Flowgate responds to power movement on the path under evaluation.

The common relationship between the identified limiting Flowgate and the path is the Transfer Distribution Factor (TDF). This is mathematically expressed as follows:

Firm ATC = the firm Available Flowgate Capacity divided by the Transmission Distribution Factor
(FATC = FAFC/TDF)
of the associated path.

Likewise,

Non-Firm ATC = the non firm Available Flowgate Capacity divided by the Transmission Distribution Factor
(NFATC = NFAFC/TDF)
of the associated path.

Path ATC is determined by identifying the most limiting Flowgates to the path in question. Each Flowgate represents a potential limiting element to any path within a system. Therefore, each Flowgate with known Transfer Distribution Factor (TDF) can be translated into path ATC. However, the Flowgate that produces the most limiting path ATC is the key Flowgate for that path.

The calculation of path ATC using this method is based on the ratio of the TDF into the remaining capacity of a Flowgate, (non firm Available Flowgate Capacity or firm Available Flowgate Capacity). Once a group of potential limiting elements has been selected, then all values pertaining to ATC can be translated based on the TDF.

4.2.3 Response Factors

Response Factors are numerical relationships between key adjustments in the transmission system and specific transmission components being monitored. They provide a linear means of extrapolation to an anticipated end for which decisions can be made. While there are obviously uncountable numbers of responses occurring in a system while transferring power, there are only a few that aid in the process of determination of ATC.

- (1) Transfer Distribution Factor** - The Transfer Distribution Factor (TDF) is a general term referring to either PTDF or OTDF. The relationship between adjustments in participation points associated with a specific path and the identified Flowgate in the system is the TDF. Depending on the Flowgate type, the TDF may specifically represent the response in the system to certain types of pre-identified system limitations as mentioned in the System Limitations section of the criteria.
- (2) Line Outage Distribution Factor** - The Line Outage Distribution Factor (LODF) is the percent of the power flowing across the contingency facility that transfers over the monitored facility when the contingency facility is switched out of service.
- (3) Power Transfer Distribution Factor** - The Power Transfer Distribution Factor (PTDF) is the percentage of a power transfer that flows through a facility or a set of facilities for a particular transfer when there are no contingencies. PTDF type Flowgates are used for representing Thermal, Voltage, Stability and Contractual Limitations. A PTDF Flowgate must have a PTDF at or above the percentage outlined in NERC Operating Policies Transmission Loading Relief curtailment thresholds to be considered a valid limit to transfer, except in long-term evaluations where no TDF threshold is used.
- (4) Outage Transfer Distribution Factor** - The Outage Transfer Distribution Factor (OTDF) is the percentage of a power transfer that flows through the monitored facility for a particular transfer when the contingency facility is

switched out of service. OTDF type Flowgates typically represent contingency based thermal limitations within the system. They can also be used to represent Stability limitations. Monitored Facility must have an OTDF at or above the percentage outlined in NERC Operating Policies Transmission Loading Relief curtailment thresholds to be considered a valid limit to transfer, except in long-term evaluations where no TDF threshold is used.

- (5) Power Transfer Voltage Factor** - The Power Transfer Voltage Factor (PTVF) is the per unit amount that a facility's voltage changes due to a particular transfer level. A facility must have a PTVF at or above 0.02 p.u. to be considered a valid limit to transfer.

4.2.4 Transfer Capability Limitations

The electrical ability of the interconnected transmission network to reliably transfer electric power may be limited by any one or more of the following:

1. **Thermal Limits** - Thermal limits establish the maximum amount of electrical current that a transmission circuit or electrical facility can conduct over a specified time period before it sustains permanent damage by overheating or before it violates public safety requirements. Normal and emergency transmission circuit ratings are defined in the SPP Rating of Equipment.
2. **Voltage Limits** - System voltages must be maintained within the range of acceptable minimum and maximum voltage limits. For example, minimum voltage limits can establish the maximum amount of electric power that can be transferred without causing damage to the electric system or customer facilities. A widespread collapse of system voltage can result in a blackout of portions of or the entire interconnected network. Acceptable minimum and maximum voltages are network and system dependent. The Normal Voltage Limit range is the operating voltage range on the interconnected systems, above or below nominal voltage and generally expressed in kilovolts, that is acceptable on a sustained basis. The Emergency Voltage Limit range is the operating voltage range on the interconnected systems, above or below nominal voltage and generally expressed

in kilovolts, that is acceptable for the time sufficient for system adjustments to be made following a facility outage or system disturbance. Voltage limits will be as specified in the Planning Criteria section of the SPP Criteria: Regional Transmission Planning.

3. **Stability Limits** - The transmission network must be capable of surviving disturbances through the transient and dynamic time periods following a disturbance. Specific Stability Limits Criteria is found in the SPP Criteria: Regional Transmission Coordinated Planning.
4. **Contractual Requirements**- Some Transmission Owners have contractual arrangements that contain mutual agreements regarding the power transfer available between them. These contractual arrangements have been approved by the appropriate regulatory agencies. The NERC Operating Policies inherently recognize contract requirements that may limit the power transfer between Transmission Owners. Some contract requirements are discussed in NERC Operating Policy 3 – Interchange.

The limiting conditions on some portions of the transmission network can shift among thermal, voltage, stability and contractual limits as the network operating conditions change over time

4.2.5 Invalid Limits

The procedures outlined in criteria may lead to identification of certain limiting facilities that are invalid. Reasons may include, but are not limited to:

- An invalid contingency generated as a generic single outage, which is not valid without the outage of other facilities.
- Incorrect ratings. Ratings will be corrected and the limiting transfer level recalculated.
- The rating used may be directional in nature (directional relaying) and may not be valid for the direction of flow.
- The limiting facility is the result of over-generation/under-generation at a participation point.
- The contingency is considered improper implementation of an operating procedure.
- The facility represents an equivalent circuit.

- The limiting facility is declared a Local Area Problem.

Any limiting facility determined to be invalid due to modeling error that could be corrected must be corrected by the next series of seasonal calculations.

4.2.6 Flowgates

Flowgates are selected power transmission element groups that act as proxies for the power transmission system capable of representing potential thermal, voltage, stability and contractual system limits to power transfer. There are two types of Flowgates;

- OTDF Flowgate; Composed of usually two power transmission elements in which the loss of one (contingency facility) can cause the other power transmission element (monitored facility) to reach its emergency rating.
- PTDF Flowgate; Composed of one or more power transmission elements in which the total pre-contingency flow over the flowgate cannot exceed a predetermined limit. Either with the power transmission system intact or with a contingency elsewhere, the Flowgate can be selected to represent a thermal, voltage, stability or contractual limit.

Once a set of limiting elements have been identified, as potential transfer constraints, they can be grouped with their related components and identified as unique Flowgates. The rating of the Flowgate is called the Total Flowgate Capacity (TFC) of the Flowgate and is monitored and used for evaluation of all viable transfers for commerce.

To the extent that the impedance network models are similar with similar participation patterns, the same Flowgates can be monitored in other network models for purposes of evaluating the impact of additional transactions on the network. Of course, each network model will be subtly different therefore it is important that engineering judgment is exercised regarding the validity of applying existing Flowgates to a new network model.

4.2.7 Total Flowgate Capacity (TFC)

The Flowgate and its Total Flowgate Capacity are pre-defined. A Flowgate is intended to limit the amount of power allowed to flow over a defined element set. This TFC may reflect several possible types of system limitations as described in the Limitations Section.

For OTDF Flowgates representing thermal overloads, the TFC represents the total amount of power that can flow during the contingency without violating the emergency rating of the monitored facility.

For PTDF Flowgates, the TFC represents the total amount of power that can flow over a defined element set under pre-contingency conditions.

Again, limit types could be:

- 1) Thermal limits under normal operating conditions or linked contingency events,
- 2) Voltage limits under normal operating conditions or linked contingency events,
- 3) Stability limits under normal operating conditions or linked contingency events, or
- 4) Contractual limits.

Flowgates are selected based on the impacts of power transfer in an electrical network and will be evaluated on a regular basis and revised as needed to ensure thorough representation of the system they are representing.

Each Flowgate represents a possible limitation within a network and in itself has a Flowgate rating (TFC) and an Available Flowgate Capacity (AFC) which can be translated via the path response factor (TDF) to a path Available Transfer Capability (path ATC) for any path.

4.2.8 Flowgate Capacity

4.2.8.1 Total Flowgate Capacity (TFC)

A Flowgate acts as proxy to path transfer limitations. This allows additional transfer capability on a path based on the additional loading that can be incurred. The determination of additional loading that can be incurred on a Flowgate begins first with the determination of the maximum loading that can be allowed on a PTDF Flowgate or on the monitored facility of an OTDF Flowgate during its associated contingency. This maximum loading is termed Total Flowgate Capacity (TFC).

4.2.8.2 Available Flowgate Capacity (AFC)

The available capacity on a Flowgate for additional loading for new power transfers is determined by taking the Total Flowgate Capacity (TFC) and removing the Flowgate Base Loading (FBL) and the Impacts due to existing system commitments and any transmission margins.

$$\text{AFC} = \text{TFC} - \text{FBL} - \text{Impacts of existing commitments} - \text{transmission margins}$$

4.2.8.3 Firm and Non-Firm Available Flowgate Capacity (FAFC and NFAFC)

Path ATC is classified as firm or non-firm. This distinction is made when determining the Available Flowgate Capacity (AFC) remaining for path ATC. AFC is classified as firm or non-firm depending on the types of existing commitments considered for Impacts. This is realized in the formula for Available Flowgate Capacity:

$$(\text{AFC} = \text{TFC} - \text{FBL} - \text{Impacts of existing commitments} - \text{transmission margins}).$$

4.2.9 System Impacts

4.2.9.1 Impacts of Existing Commitments

In order to simultaneously account for impacts of all commitments to all paths at any given instant in time, it is necessary to devise a system that allows for fluctuation in the number of and the magnitude of system commitments on each path within an acceptable amount of time, for the purpose of providing transmission service in a competitive manner.

Existing transmission commitments beyond those modeled as native load and related generation commitments can be found on the OASIS. However, before impacts of OASIS posted reservations can be calculated, they must first be interpreted – carefully examined for peculiar individual characteristics. Due to the nature of the OASIS and the rules therein, posted reservations sometimes require interpretation as to their actual value to apply toward the transmission network.

The following are examples of evaluations that are performed:

- Recognize and adjust for duplicate reservations by multiple providers to complete one transaction.
- Adjust for reservations that may have changed status or have been replaced by another reservation.
- Check for proper reflection of capacity profiles of reservations.
- Distinguish status and class of reservations such as Study, Accepted, Confirmed, Firm, and Non-Firm status to determine their proper impact level.

4.2.9.2 Positive Impacts

The scope of “Impacts of existing commitments” in the formula for AFC incorporates both the calculated positive impacts and counter impacts of non-firm and firm service commitments. A positive impact is determined as having the effect of increasing the loading on a Flowgate in the direction of the Flowgate. Positive impact types are sorted into those resulting from firm and non-firm service commitments. To determine firm or non-firm Available Flowgate Capacity, the appropriate impacts are applied to make up the “Impacts of existing commitments” in the above formula. Additionally, counter impacts are considered depending on firm or non-firm determinations.

4.2.9.3 Counter Impacts

Counter impacts are those impacts due to transfers that act to relieve loading on limiting elements. Counter impact types are sorted into those resulting from firm and non-firm service commitments. These flows are not traditionally accepted as valid under the pretense that any reservation that may cause such a loading relief is not actually doing so until it has been scheduled. To consider counter-flows in transfer capability studies is to assume a high probability of scheduling.

4.2.10 Monitored Facilities

During the Flowgate determination process those facilities monitored for pre-defined limiting conditions. Mandatory Monitored Facilities, for use in these calculations, are all facilities operated at 100 kV and above and all interconnections between Transmission Providers. Other facilities operated at lower voltage levels may be added to the

Monitored Facilities list at the discretion of the Transmission Providers or Transmission Owners.

In defining Flowgates, the Monitored Facilities are those components of a Flowgate that remain in service following the defined contingency.

4.2.11 Critical Contingencies

Those facilities that, when outaged, are deemed to have an adverse impact on the reliability of the transmission network. These facilities may be transmission facilities, including multi-terminal lines, or generating units. All interconnections of an area will be considered Critical Contingencies, regardless of voltage level as will the largest generating unit in the area.

4.3 RELIABILITY MARGINS

Transmission margins are very important to the reliability of the interconnected network in an Open Access environment. The NERC "Available Transfer Capability Definitions and Determination Reference Document" defines Transmission Reliability and Capacity Benefit margins (TRM, CBM).

When using Flowgates as a means to represent a system's constraints, it is necessary to translate reliability margins, TRM and CBM, to a unique TRM and CBM for each Flowgate. Margins are the required capacities that must be preserved for the purpose of moving power between areas during specific emergency conditions. Since a margin is a preservation of transfer capacity, the margin itself will have an impact on the most limiting element between the two areas for which it is reserved.

All studies for the purpose of assessing TRM and CBM will only include generation units located within the transmission system for which the Transmission Provider is responsible. These generation units may also include those not specifically designated to serve network load connected to transmission systems within the Transmission Provider system. However, the method by which a Transmission Provider is to determine TRM and CBM shall not vary from that described herein with the exception of assessing facilities located outside of SPP regional structure/bounds.

4.3.1 Transmission Reliability Margin (TRM)

TRM on a Flowgate basis is that amount of reserved Flowgate capacity necessary to ensure that the interconnected transmission network is secure under a reasonable range of uncertainties in system conditions. The following factors shall be considered by SPP in the determination of TRM.

- Load Forecast

Transmission Providers will forecast hourly load for the next seven days for all applicable control areas.

Beyond seven days, Transmission Providers will project a demand based on seasonal peak load models for all applicable Transmission Owners. These load levels will be the projected peaks for the time frame for which the forecast applies.

- Variations in Generation Dispatch

Variations to generation patterns constitute a viable concern. Generation dispatch in near-term models will be based on real-time snapshots of network system conditions. For the longer-term horizons, whenever possible, generation dispatch information provided by generation owners will be applied to the ATC calculations. However, it is recognized that longer-term dispatch is probably unknown to the generation controlling entities themselves except for base-load and must run type units.

- Unaccounted Parallel Flows

Parallel flows can be an issue if pertinent data to the ATC calculations are not shared among the transmission providers and those transactions that have multiple wheeling parties are not identified. Provision in the SPP OATT have reduced the impacts of these transactions within SPP and between SPP and other regions.

Transmission Owners of facilities that are impacted by unaccounted parallel flows or variations in dispatch may request additional TRM for their impacted Flowgates from the TAWG. Such requests must be in writing, must document the parallel flow impacts or the variance in historical dispatch, and be accompanied by analysis or documentation supporting the additional TRM requirements. The TAWG shall have the authority to grant or reject requests for the additional TRM requests.

- SPP Operating Reserve Sharing

The SPP Operating Reserve Sharing program was instituted to provide both reliability and economic benefits to its members. This program reduces the amount of internal operating reserves each entity is required to maintain while providing an automated way of allocating resources on a region wide level to ensure quick recovery for the loss of any unit. Transmission facilities must be able to support the automatic implementation of the Reserve Sharing program. To that end, TRM on the Flowgates will provide enough capacity to withstand the impact of the most critical generation loss to that facility. All generation contingencies will be simulated by the Operating Reserve Sharing algorithm to determine the highest impact on each Flowgate. This capacity will be included in TRM.

- Counter Flow Impacts

Another factor to consider in the SPP TRM process is that for the planning horizon, which is primarily next day and beyond, the counter flow impacts of reservations on the Flowgates are removed with the exception of Designated Network Resources. This provides an inherent margin in the calculation which along with the constant TRM provided by the reserve sharing allocation, is a proxy for the generation variation.

4.3.2 TRM Coordination

The TRM specified on a Flowgate represents a transmission margin that the transmission system needs to maintain a secure network under a reasonable range of uncertainties in system conditions. As such it is not necessarily an import or export quantity specifically. The Automatic Operating Reserve Sharing portion is determined by centralized Regional study based on the SPP Operating Reserve Sharing Criteria. Any additional TRM may be requested by the Flowgate owner/s, subject to review by the SPP TAWG.

4.3.3 TRM Availability for Non-firm Service

To maximize transmission use to the extent reliably possible, Transmission Providers may sell TRM on a non-firm basis. The 'a' and 'b' multipliers facilitate this purpose in the calculations. However, a contingency or long-term outage to a high impact unit may result in the curtailment of non-firm schedules and displacement of non-firm reservations sold within the TRM.

4.3.4 TRM Calculation Frequency

The Operating Reserve Sharing portion of the TRM will be determined annually for each season (Spring, Summer, Fall, Winter). This process is outlined in the SPP Criteria under Operating Reserves and the Operating Reserve Share Program Procedures. Flowgate owner requests for additional TRM may be submitted at any time for consideration at the next TAWG meeting. The submittal should include justification and rationale in writing for the requested additional TRM. The TAWG shall have authority to reject or grant such requests.

4.3.5 Capacity Benefit Margin (CBM)

CBM on a Flowgate basis is the amount of Flowgate capacity reserved by load serving entities to ensure access to generation from interconnected systems to meet generation reliability requirements.

SPP will use a probabilistic approach for Regional and sub-regional Generation Reliability assessments. These assessments will be performed by the SPP on a biennial basis. Generation Reliability assessments examine the regional ability to maintain a Loss of Load Expectation (LOLE) standard of 1 day in ten years. The SPP capacity margin Criteria requires each control area to maintain a minimum of 12% capacity margin for steam-based utilities and 9% for hydro-based utilities. Historical studies indicate that the LOLE of one day in ten years can be maintained with a 10% - 11% capacity margin. As a normal practice, default values for CBM will be zero for calculations of ATC for some or all of the following reasons:

- the existing level of internal capacity margin of each member is adequate
- historical reliability indicators of transmission strength of the SPP area
- Open Access transmission usage environment allows greater purchasing options

Flowgate owner requests for additional CBM may be submitted at any time for consideration at the next TAWG meeting. The submittal should include written justification and rationale for the requested additional CBM. The TAWG shall have authority to reject or grant such requests.

4.4 FLOWGATE AND TFC DETERMINATION

The Flowgates used by SPP to administer the Regional Tariff serve as a proxy of the transmission system. It is therefore essential to the reliable operation of the transmission system for the set of Flowgates to adequately represent the transmission system.

4.4.1 Flowgate Updates

Updating the list of Flowgates is a continual process. Flowgate additions and deletions and changes in TFC are the result of studies, analyses, and operating experience of SPP and its member Transmission Owners. At any time during the year, the owner of transmission facilities may require that a set of facilities be used as a Flowgate to protect equipment or maintain system reliability, regardless of the ownership of that set of facilities. SPP will update the Flowgate list as needed. The responsibility for reviewing and monitoring the list will be shared between the individual Transmission Owners, the TAWG, the Security Working Group (SWG) and the SPP staff. Updating the Flowgate list may or may not require running a study. If the Transmission Owner is to perform a study, they are responsible for gathering accurate information from neighboring Transmission Owners. The following requirements apply when adding a Flowgate to the list:

- Transmission Owners may add OTDF Flowgates, provided that the contingency is valid, the TFC represents the total amount of power that can flow during the contingency without violating the emergency rating of the monitored facility, and no operating procedures apply to that Flowgate.
- Transmission Owners may add PTDF Flowgates, provided that it is a single facility Flowgate, the TFC is equal to the normal rating of the single facility, and no operating procedures apply to that Flowgate.
- All other Flowgates proposed by Transmission Owners must have TAWG and SWG approval. The Security Coordinator can provide interim approval until the TAWG and SWG can convene to assess the request. Examples of such Flowgates are PTDF Flowgates with two or more elements, OTDF Flowgates with three or more elements, or Flowgates involving operating procedures.

There may be times when significant topological changes occur during operations that create unexpected loadings on facilities not explicitly modeled as Flowgates. During these conditions, the Security Coordinator will work with the Transmission Owner(s) to develop a commercial Flowgate representative of the conditions present. Any such additions will be analyzed at the next Flowgate evaluation to determine if they should remain in the permanent list of Flowgates.

4.4.2 Annual Review

In addition to the continual studies and analyses, the Flowgate list will also be reviewed annually by the TAWG using seasonal power flow models. This annual assessment will be performed following the January SPP Model Development Work Group (MDWG) release of each year's load flow cases. This review is intended to serve as a tool by which the TAWG, the Transmission Owners, and the SPP may assess the adequacy of the existing list of Flowgates and thereby recommend necessary additions, deletions, and TFC changes. In order to accomplish this assessment, the process herein described will be used to identify the most limiting elements for a variety of transfer directions. Although transfer values will be involved in this process, this process is not intended to produce any viable ATC values for use commercially or otherwise. Rather, ATC values are determined as described in the "ATC Calculation Procedures" section.

4.4.2.1 Power Flow Models

The power flow models to be used in the process will be based on the models developed annually by the SPP MDWG. Application of the models will use the following season definitions. The Summer Model will apply to June through September, the Fall Model will apply to October and November, the Winter Model will apply to December through March and the Spring Model will apply to April and May. Each of these seasonal models developed will represent peak models. In addition, for the summer season only, a Summer Shoulder Case representing approximately an 85% load level will be used in the determination process.

Prior to the start of the review all SPP Transmission Owners will submit a list of changes to SPP to adjust the models. These changes should be such that the power flow models used to review the Flowgate list represent the seasonal loads, transmission system configuration, generation dispatch, and transactions that

each Transmission Owner expects will occur during actual seasonal operations. The changes will be submitted to SPP in a common format as outlined in the SPP Load Flow Procedure Manual.

Model changes and parameters for Transmission Owners outside of SPP will be coordinated through the NERC regional councils.

4.4.2.2 Parameters supplied by the Transmission Owners

In order to simulate a transfer, certain parameters must be known. These include the participation points of MW increase/decrease and the participation factor of these points. These items will be supplied to SPP by the Transmission Owners.

Participation points for exports will primarily be points of generation within the sending area. Generators that are off-line may be turned on to participate in a transfer. A Transmission Owner can specify generators to be excluded from use as participation points, such as generators that serve base load. The participation points used for export will be consistent for all transfer directions.

The participation points for imports will primarily be points of generation reduction within the receiving area. A Transmission Owner can specify generators to be excluded from use as participation points, such as generators that serve base load. The generation reduction should be based on economics, operating constraints or other criteria as specified by the Transmission Owner. The participation points used for import will be consistent for all transfer directions.

Other parameters that must be supplied by the Transmission Owners include the following:

- A contingency list including all critical single contingencies (both transmission and generation) as well as multi-terminal facilities.
- All contingencies suspect of causing voltage limitations and the transfers for which they should be studied.
- Any additional facilities below 100 kV to be monitored.
- High and low voltage limits for system and/or individual buses.

- All Contractual Requirements.

4.4.2.3 Default Parameters

The following parameters will be used in the event that a Transmission Owner does not submit the area specific parameters:

- For exports, the participation points will include all on-line generating facilities in the model with unused generating capacity available.
- The export participation factors will be the amount of unused generating capacity at each point divided by the sum of the unused generating capacity at all export participation points.
- For imports, all on-line generators will be decreased prorated by their machine base.
- Transfer directions will be a set of all commercial paths.
- Exports from merchant power plants will be considered in the determination of Flowgates.
- The transfer test levels are specified at the time of the ATC calculations, and are determined by SPP staff.
- All facilities 100 kV and above will be included in the contingency list and the monitored facility list. In addition, the largest unit within the area will be included in the contingency list.
- Voltage limits will be as specified in Planning Criteria section of the SPP Criteria: Regional Transmission Planning.

4.4.2.4 Voltage Limits

Voltage limits are network and system dependent. Each Transmission Owner will submit an acceptable set of Normal Voltage Limits and Emergency Voltage Limits to be applied for the purpose of Flowgate and TFC determination.

4.4.2.5 Linear Analysis and AC Verification

SPP will perform DC linear analysis studies estimating the import or export ability

of the identified commercial paths using a combined linear evaluation of the network models with a follow up AC verification of a minimum of the first three valid operational limitations. Specific AC analysis will also be performed on any specified contingency/transfer combinations noted as voltage limiting contingencies. Monitored Facilities, Contingency Facilities and Participation Points will be implemented as described in the “Parameters Supplied by the Transmission Owners” section or “Default Parameters” section as applicable.

4.4.2.6 Operating Procedures

Operating Procedures are available and may increase the Total Flowgate Capacity of a Flowgate when implemented. Implementation of any available Operating Procedures will be done using a full AC solution to determine the correct limit to be placed on a Flowgate. Any operationally increased Total Flowgate Capacities established will be so noted.

4.4.2.7 Identification of Flowgate Changes

TAWG will review the FCITC results of the power flow models and selected paths and identify whether any Flowgates should be added, removed, or changed to better represent the SPP transmission system.

A minimum of the first three valid FCITC limitations to each path will be AC verified. When all paths have been evaluated, the TAWG will review the AC verification results and, where needed, the linear results for consideration as potential Flowgates.

Typically, new Flowgates should be either OTDF Flowgates with a TFC representing the total amount of power that can flow during a contingency without violating the emergency rating of the monitored facility or single facility PTDF Flowgates with a TFC equal to the normal rating of the single facility. In situations involving operating procedures the TFC may be higher than the facility ratings.

The TAWG will then determine any needed changes to the existing list of Flowgates. The number of times elements appear as one of the most limiting components for transfers, the rank in the list of most limiting elements, and the

TDF level will be the primary factors considered in making the determination. Flowgates can also be developed to represent identified Voltage Limitations and Contractual Requirements.

4.4.2.8 Review and Coordination with Transmission Owners

Each SPP Transmission Owner will have the option of naming a representative to review the results of the Flowgate review or deferring to the TAWG finalization of the results. Summary sheets of all interfaces or paths calculated will be communicated to the representatives for review. All data will be made available for review upon request. The results will be approved by the TAWG before being reported.

The Transmission Owner should review the TAWG proposed Flowgate changes and consider their own operating experience and study results. Any modifications to the TAWG proposed changes should be returned to the TAWG. Further dialog and justification may be required of a Transmission Owner if the TAWG has concerns about their modifications.

TAWG will draft a final Flowgate list, incorporating the comments of the Transmission Owners. The Transmission Owners should approve any additions, deletions, or changes to the Flowgate list.

4.4.2.9 Initiating Interim Review Of Flowgate List

Operational condition changes, especially status changes of EHV transmission facilities and large generators, may warrant a partial or full evaluation of the list of Flowgates. A review may also be necessary due to multiple schedules being implemented causing parallel flows.

Transmission Owners will have access to copies of the SPP models and all relevant data used for the annual review. Transmission Owners may at any time request a re-run of the Flowgate evaluations. The Transmission Owner requesting the re-run shall provide their reasons for requesting the re-run to the TAWG for consideration. Should the TAWG deem a re-run necessary, the SPP staff will perform the additional evaluation.

4.4.3 Dispute Resolution

If there is a dispute concerning a Flowgate, the questioning party must contact SPP and the Transmission Owner(s) involved to resolve the dispute.

Examples of reasons for disputing a Flowgate may include:

- The contingency used for the Flowgate is not valid.
- There is an operating procedure that corrects the violation that is not being properly taken into account.
- An operating procedure is being taken into account in an improper manner yielding an incorrect TFC.

If the parties involved do not reach agreement on the selected Flowgates, the SPP TAWG will review all of the arguments. Additional analyses will be performed if necessary. SPP TAWG will then make a final determination. If a party still wishes to dispute the Flowgate, the SPP Dispute Resolution policy described in Section 2 of the SPP By-laws may be initiated.

4.4.4 Coordination with Non-SPP Members

Flowgates involving transfers on interfaces and paths between SPP Transmission Owners and non-SPP Transmission Owners will be coordinated by the parties involved and the TAWG.

4.4.5 Feedback to SPP Members

The SPP staff shall maintain a table of all Flowgates on the SPP OASIS. The table shall include all Flowgate data, which are applicable, including the Flowgate name, monitored facility, contingency facility, Flowgate rating, TRM, CBM, a and b multipliers, LODF, the TDF basis for the Flowgate (OTDF or PTDF), and the TDF cutoff threshold. This table shall be updated with any new information on or before the first of each month.

4.5 ATC CALCULATION PROCEDURES

The determination of ATC via Flowgates utilizes proxy elements to represent the power transmission network. This process depends on the selected Flowgates to act as pre-determined limiting constraints to power transfer. The process by which ATC will be determined when using the Flowgate proxy technique incorporates the Definitions and Concepts within this Criteria.

Determination of ATC via Flowgates adheres to the following approach:

- establishes a network representation (power flow model)
- identifies potential limits to transfer (thermal, voltage, stability, contract)
- determines response factors of identified limits relative to transfer directions (TDF)
- determines impacts of existing commitments (firm, non-firm)
- applies margins (TRM, CBM, a & b multipliers)
- determines maximum transfer capabilities allowed by limits and applied margins (ATC, FATC, NFATC)

4.5.1 ATC Calculation and Posting Timeframes

To assist Transmission Providers with Short Term service obligations under FERC Order 888 and 889, SPP will calculate the monthly path ATC for the upcoming 16-months for all potential commercial paths for Transmission Providers in the SPP Region. This data will be posted for use in evaluating the SPP OATT requests and provided on a monthly basis to the Transmission Providers in adequate time to post the information on OASIS nodes by the 1st of each month.

Hourly, Daily and Weekly ATC shall be calculated on a daily basis and posted at the time of run. SPP will also provide commercial path conversions to any individual providers needing that information to administer their own tariff. Hourly ATC shall be calculated for 12 to 36 hours ahead depending on time of day. SPP has a firm scheduling deadline at 12:00 noon of the day prior to start. At this point all firm schedules are known and the hourly non-firm request window opens for the next day. At this point SPP will calculate hourly ATC for HE 14 of the current day through HE 24 of the next day. This process continues dropping the current hour each resynchronization until 12:00 noon the next day when the cycle starts again. Again SPP will provide commercial path conversions for any SPP provider that needs them for posting on their own OASIS nodes.

4.5.2 Power Flow Models

The monthly calculation of Flowgate based ATC will be made using rolling seasonal models that produce an update for the upcoming sixteen month service window (12 month multi-month service + 4 months advance notice). For example, the required data update for January of any year will yield data for January thru December plus the next January, February, March and April of the following year. The necessary seasonal models will be selected from the approved SPP MDWG set to represent this time frame. Any known system changes/corrections to these models will be included. SPP will routinely calculate ATC for the upcoming 16-month service window. Monthly models will be updated/developed from the latest seasonal models to represent individual months for the purpose of capturing operational conditions that may be unique from other monthly models.

4.5.3 Base Loading , Firm and Non-Firm (FBL & NFBL)

Model base flows provide the basis for which to begin determination of Available Flowgate Capacity. However, there are many transactions within the monthly models that are duplicated on the OASIS. A record of the network model flows of each Flowgate as found in the solved network models will be used as a beginning point to account for impacts of base case transactions and existing commitments. The impacts on Flowgates due to transactions outside the purpose of representing designated Network Resource exchange will be removed by applying the TDF factors determined to each transaction identified in the base case. In addition to adjusting the model flow in this manner, positive and counter impacts of existing OASIS commitments will be applied according to the type of Base Loading (Firm or Non-Firm) under consideration. In non-firm Base Loading, 50% of Counter Impacts resulting from firm Confirmed reservations will act to reduce the overall Base Loading figure. This process will establish the base loading expected with each control area serving its firm Network Load.

4.5.4 Transfer Distribution Factor Determinations (TDF)

Participation data provided by Transmission Owners from the annual Flowgate evaluation process will be used as default data unless otherwise specified. TDF data will

be calculated for all commercial paths using the most current participation data, ATC models and Flowgate list on a monthly basis.

4.5.5 Existing Commitments and Netting Practices

Existing commitments resulting from Confirmed, Accepted and Study reservations on the SPP OATT OASIS nodes will be considered and accounted for in the determination of Available Flowgate Capacity. Accounting for the impact of existing commitments is a key part of the process for determining which new transfers will be allowed, unlike the TLR implementation process which involves determining which existing transfers must be curtailed. Therefore, unlike TLR implementation which requires a minimum TDF threshold, all positive impacts from existing commitments must be applied without using a minimum TDF threshold. Impacts from these commitments will be applied according to the future time frame of which they are applicable. These time frames are discussed below:

4.5.5.1 Yearly Calculations (whole years, starting 60 days out)

A Yearly transmission service request is defined as a service request with a duration of greater than or equal to 1 year in length. The evaluation of Available Transfer Capability for this service type is performed utilizing solved network models with existing OASIS commitments figured in as net area interchange values. In addition to monitoring Flowgates, standard N-1 contingency analyses will be performed to study the impact of yearly transmission requests on the transmission system.

4.5.5.2 Monthly Calculations (months 2 through 16)

The impacts of OASIS reservations that are Confirmed, Accepted and in Study mode will be applied to each Flowgate according to the TDF values determined. All positive impacts on a Flowgate due to these types of reservations decrease ATC. 100% of counter flow impacts due to reservations supplying Designated Network Resources are allowed to increase ATC. For non-firm service, up to 50% of the counter-flows due to all firm Confirmed reservations will be allowed on a Flowgate. The combined positive impacts and counter flow impacts will be added to the base flows to determine Available Flowgate Capacity for the Monthly calculation.

4.5.5.3 Daily and Weekly Calculations (Day 2 through 31)

For Daily and Weekly calculations, composite area interchange values will be determined by integrating all OASIS Confirmed and Accepted reservations into projection models. Base flows will be determined by the projection models and counter flow impacts will be backed out by applying the necessary negative TDF calculations to all Accepted, Confirmed and Study reservations. For non-firm Available Flowgate Capacity calculations, up to 50% of the counter flow impacts due to all firm Confirmed reservations will be allowed. For firm Available Flowgate Capacity, the counter flow impacts of Confirmed reservations for Designated Network Resources are allowed to unload Flowgates.

4.5.5.4 Hourly Calculations (Day 1)

These calculations are for hourly non-firm service only. All known schedule information from NERC Electronic-tags will be applied to base flow calculations. These schedules determine base interchange values. Since these are expected schedules, all counter flow impacts are allowed in this calculation. OASIS reservation information is not considered for determination of existing impacts in this calculation.

4.5.6 Partial Path Reservations

Requests made on individual Transmission Provider's tariffs require two or more reservations to complete a transaction resulting in a partial path reservation. The SPP OATT offers service out of, into and across SPP and between SPP members with a single reservation. For transmission service under the SPP OATT, only reservations with valid sources and sinks are allowed. However, to avoid double accounting of Flowgate and system impacts due to duplicate reservations documented on Transmission Provider OATT OASIS nodes from partial path reservations, necessary means will be incorporated to recognize these related reservations and determine the correct singular impacts.

4.5.7 ATC Adjustments Between Calculations

ATC will be adjusted following receipt of any valid SPP OASIS node reservation. The requested capacity will be multiplied by the TDF on all affected Flowgates and the

resulting amounts will be subtracted from each Flowgates' ATC and posted to the OASIS.

4.5.8 Coordination of Transmission Commitments with Neighboring Organizations

Coordination of dispatch information, Confirmed firm and non-firm system commitments from neighboring regions, RTO's, ISO's etc. will be conducted as appropriate to each type of ATC being determined to establish the most accurate system representation of base flows and generation profiles. External reservations may be retrieved from other OASIS sites or locations designated by neighboring Transmission Providers.

4.5.9 Margins

Identified TRM and CBM will be applied to each Flowgate as described in the Reliability Margins section.

4.5.10 ATC Determination

The following equations are used in ATC determination:

4.5.10.1 Firm Base Loading (FBL)*, **:

- Firm Base Loading = (Flows resultant of DNR) + (Σ Positive Impacts due to Firm OASIS Commitments, Confirmed, Accepted and Study) – (100% of Σ Counter Impacts due to Confirmed Firm OASIS Commitments for DNR only)

4.5.10.2 Non-Firm Base Loading (NFBL)*, **:

- Non-Firm Base Loading = (Flows resultant of DNR) + (Σ Positive Impacts due to Firm and Non-Firm OASIS Commitments, Confirmed, Accepted and Study) – (up to 50% of Σ Counter Impacts due to Confirmed Firm OASIS Commitments)

4.5.10.3 Firm Available Flowgate Capacity (FAFC):

- Firm Available Flowgate Capacity = (Total Flowgate Capacity) – (TRM) – (CBM) – (Firm Base Loading)

4.5.10.4 Non-Firm Available Flowgate Capacity (NFAFC, Operating Horizon):

- Non-Firm Available Flowgate Capacity, Operating Horizon = (Total Flowgate Capacity) – (b*TRM) – (CBM) – (Non-Firm Base Loading)

4.5.10.5 Non-Firm Available Flowgate Capacity (NFAFC, Planning Horizon):

- Non-Firm Available Flowgate Capacity, Planning Horizon = (Total Flowgate Capacity) – (a*TRM) – (CBM) – (Non-Firm Base Loading)

4.5.10.6 Firm Available Transfer Capability (FATC):

- Firm ATC = Most limiting value from associated Flowgates = Min {Firm Available Flowgate Capacity/TDF of appropriate path}

4.5.10.7 Non-Firm Path Available Transfer Capability (NATC, Operating Horizon):

- Non-Firm ATC, Operating Horizon = Most limiting value from associated Flowgates = Min {Non-Firm Available Flowgate Capacity, Operating Horizon/TDF of appropriate path}

4.5.10.8 Non-Firm Available Transfer Capability (NFATC, Planning Horizon):

- Non-Firm ATC, Planning Horizon = Most limiting value from associated Flowgates = Min {Non-Firm Available Flowgate Capacity, Planning Horizon/TDF of appropriate path}

* Applicable pre-emption requirements of lower priority service types will be considered when evaluating requests for transmission service.

** Impacts resulting from queued Study reservations will be applied according to priority when evaluating requests for transmission service.

SPP will calculate the ATC for each of its Transmission Providers on their direct interconnections (either physical interconnections or by rights to a line) and any interface or path requested by a Transmission Provider to fulfill its obligations under FERC Order 889. The ATC for requested interfaces or paths will be calculated only if requested by the Transmission Provider obligated to post the interfaces or paths.

4.5.11 Annual Review of ATC Process

The SPP TAWG will conduct an annual review of the Regional ATC determination process including TRM and CBM to assess regional compliance with NERC requirements, regional reliability needs and functionality toward SPP Transmission Owners and Users. This review will be held at the same time as the Flowgate Evaluation process.

SPP will conduct a survey of the Transmission Owners and Users and the results will be published on the SPP website. Concerns that are identified from the survey will be forwarded to the appropriate SPP Committee.

4.5.12 Dialog With Transmission Users

Transmission Users may contact the TAWG with any concerns regarding this criterion, its implementation, or the resulting ATC values. The concerns should be in writing and sent to the chair of the TAWG. The chair will then draft a written response to the Transmission User containing either an answer or a schedule for when such an answer can be provided. If the Transmission User is not satisfied, the concerns can be sent to the chair of the Engineering and Operating Committee.

**Southwest Power Pool
ENGINEERING AND OPERATING COMMITTEE
Recommendation to the Board of Directors
December 11-12, 2001**

MODIFICATION OF SPP CRITERIA, SECTION 5.2.4.1

Background

During their September 1, 2000 conference call, the Security Working Group (SWG) approved several changes to SPP Criteria 5 and added Appendix 7 to the Criteria. At their November 6, 2000 meeting, the SPP Board of Directors (BOD) pointed out an inconsistency in the SPP Criteria during their review of those recommended revisions to SPP Criteria 5. Specifically, a sentence remained in Section 5.2.4.1 that referenced data collection on a ten-minute cycle.

Recent Activity

SPP staff reviewed the revisions to SPP Criteria 5 and Appendix 7 and made a recommendation to the SWG at their April 17-18 meeting to rewrite a sentence in Section 5.2.4.1 containing the inconsistency observed by the BOD. The SWG approved this recommendation as submitted.

Analysis

Current Wording of Section 5.2.4.1 item a.

a. Monitor the collection of operating information from control areas on a ten minute cycle, including load, area interchange error, scheduled transactions, interconnection real and reactive power flows, status of all transmission facilities at 115 kV and above plus selected 69 kV facilities, and generator real and reactive output, ready and spinning operating reserve, minimum and maximum unit output constraints, and voltage.

As documented in the newly created Appendix 7, collection periodicities are specifically stated for each of the different types of data. Most of the data that was previously defined as collected on a 10 minute periodicity was changed to a minimum of a 30 second periodicity in the last revision of the SPP Criteria. Therefore, the reference to data collection on a 10-minute cycle should be removed from Section 5.2.4.1 since the periodicities are stated in Appendix 7.

In addition to the recommendation to remove the reference to a 10-minute cycle, the SPP staff noted that the entire sentence regarding the monitoring of data collection was stating specific types of data. These specific data point descriptions are now listed in Appendix 7. Therefore, it is the recommendation of the SPP staff to remove specific references to the types of data to be collected from Section 5.2.4.1. The reference for voltage specific data should also be removed since Section 5.1 of the Criteria states that data from facilities operated at 60 kV and above shall be automatically shared. As a final documentation change, Appendix 7 should be added to the Index.

Recommendation

The SWG recommends that the proposed wording be incorporated into SPP Criteria, Section 5.2.4.1. Proposed Wording of Section 5.2.4.1 item a.

a. Monitor the collection of real-time operating information, schedules and daily forecasts from control areas as specified in Appendix 7.

Approved

Security Working Group
Engineering and Operating Committee

April 2001
October 2001

Action Requested

The Board of Directors is requested to approve the changes listed above to the SPP Criteria, Section 5.2.4.1 as recommended by the EOC.

**Southwest Power Pool
ENGINEERING AND OPERATING COMMITTEE
Recommendation to the Board of Directors
December 11-12, 2001**

MODIFICATION OF SPP CRITERIA, SECTION 7.3.1.3 a

Background

At the last EOC meeting, the SPCWG presented updated SPP Criteria 7.3 to be approved. There was a discussion on how to interpret the three steps involved in the Under Frequency Load Shedding Plan. The EOC decided to send the Criteria back to the SPCWG to be rewritten in a clear and precise manner, so there is no confusion as how the steps are to be interpreted. Ron Ciesiel and Scott Moore were put in charge of working with the SPCWG and SWG to clear up the wording for Criteria 7.3.

Recent Activity

The SPP Criteria section 7.3.1.3 a. was rewritten to clarify the three Under Frequency Load Shedding steps. Ron Ciesiel sent out the rewording to the chairmen of the SWG, SPCWG, MDWG and other involved members.

Analysis

The rewording of SPP Criteria 7.3.1.3.a. should eliminate any confusion on the size of each step. Each step is to be 10% of the total member load at the time of the event or simulation. After all three steps have been taken, the load shed shall be 30% or greater of the initial load.

The Criteria that was presented at the March EOC meeting is submitted along with the rewritten Criteria as an attachment.

Recommendation

The Chairmen of the SWG, SPCWG, and the MDWG have approved the rewording of the Criteria. They recommend the proposed wording to be incorporated into SPP Criteria Section 7.3.1.3 a.

Approved

The Criteria changes have been approved by the Chairmen of the SWG, SPCWG, and MDWG.

Action Requested

The Board of Directors is requested to approve the changes listed above to the SPP Criteria, Section 7.3.1.3 a. as recommended by the SWG, SPCWG, and MDWG and EOC.

SPP Criteria 7.3.1.3 that was submitted at the March EOC meeting

7.3.1.3 Implementation

- a. Should the utilization of spinning reserve fail to stop a frequency decline, load shedding shall be initiated in steps as indicated below. Each member's underfrequency load shedding (UFLS) schemes shall have the capability to shed its load in a minimum of ten (10) percent increments for a total of not less than thirty (30) percent of the load at summer peak after all three (3) steps of load shedding occur. Only the non-intentional delays including operating times of relays and breakers, plus any intentional delay as allowed in Criteria 7.3, shall delay the interruption of pre-event load for all events at the time of each event. All UFLS schemes shall be in service to trip loads except for maintenance and testing purposes.

<u>Frequency (Hz)</u>	<u>Step</u>	<u>Minimum Load Relief (%)</u>
59.3	1	10
59.0	2	10
58.7	3	10

Proposed wording for section 7.3.1.3

7.3.1.3 Implementation

- a. Should the utilization of spinning reserve fail to stop a frequency decline, load shedding shall be initiated in steps as indicated below. The goal of the program is to prevent a cascading outage due to a frequency excursion and restore the system to a stable condition. Members must be ready to shed, in three steps, thirty (30) percent of a member's current load regardless of the starting load point (i.e. peak-load, shoulder-load, low-load). This requirement shall be achieved as follows: 1) A member may dynamically arm and disarm UFLS relays to achieve the required load shedding totals, indicated in the chart below, by utilizing a load following program. For the purposes of this section, the term 'dynamically' means that no operator intervention is required to arm or disarm a UFLS relay, **or** 2) A member that does not dynamically arm and disarm UFLS relays shall install, or have installed on its behalf, UFLS relays with a total capability of shedding a minimum of thirty (30) percent of the member's projected summer peak load. The relays shall be set to shed the thirty (30) percent total in increments of projected peak load per step, as indicated in the chart below. Once installed, these UFLS relays shall remain in service to trip loads except for periods of testing and maintenance.

Regardless of the technique utilized only the non-intentional delays including operating times of relays and breakers, plus any intentional delay as allowed in Criteria 7.3, shall delay the interruption of pre-event load for all events at the time of each event.

Step	Frequency (hz)	Minimum Load Relief (%)
1	59.3	10
2	59.0	10
3	58.7	10

**Southwest Power Pool
ENGINEERING AND OPERATING COMMITTEE
Recommendation to the Board of Directors
December 11-12, 2001**

REVISIONS TO SPP CRITERIA 9.0

Background

System restoration in the event of a black out scenario requires thorough plans in place by each Control Area and Regional Council. During the April 28, 2000 conference call, the Security Working Group (SWG) formed the Black Start Study Task Force (BSSTF) to gather and review each SPP Control Area's Black Start Plan and verify that each plan is comprehensive and operationally sound.

Recent Activity

Recent changes in NERC Criteria require each Regional Council to establish, maintain, and verify a system Black Start Plan. During the February 21-22, 2001 meeting, the SWG charged the BSSTF to assemble a Black Start Plan for the SPP region adhering to NERC Criteria, update SPP Criteria 9.0, and develop synchronization guidelines. The BSSTF offered synchronization guidelines, an outline for the regional black start plan, and draft changes to SPP Criteria 9.0 at the June 6-7, 2001 SWG meeting. The SWG offered feedback to the draft changes and the BSSTF presented the final set of revisions to Criteria 9.0 at the August 27-28, 2001 SWG meeting. The SWG suggested minor changes before submitting a recommendation to the EOC at the September 17-18, 2001 meeting.

Analysis

The BSSTF reviewed existing SPP Criteria and member Black Start plans to identify deficiencies and update Criteria 9.0 to assist expeditious regional system restoration in adherence with NERC Criteria. The role of the SPP Security Coordinator was expanded from an information coordinator to an active role in coordinating and assisting in the recovery efforts, including the authority to suspend normal market operations and to recommend sharing of generation resources between Control Area members.

Member Black Start plans were in need of synchronization guidelines and this reference was added to the required elements for member Black Start plans.

Conclusion

The SWG reviewed the synchronization guidelines and draft changes to Criteria 9.0 and offered minor suggestions to these submittals. The SWG concluded that the synchronization guidelines should be included in the Regional Black Start Plan and should not be included in SPP Criteria. The BSSTF has incorporated the suggestions of the SWG for Criteria 9.0 including expanding the role of the SPP Security Coordinator.

REVISIONS TO SPP CRITERIA 9.0

Recommendation

The EOC recommends the attached revisions be incorporated into SPP Criteria 9.0.

Approved

Black Start Study Task Force

August 2001

Security Working Group

August 2001

Engineering and Operating Committee

October 2001

Action Requested

The Board of Directors is requested to approve the attached revisions to SPP Criteria 9.0 as recommended by the EOC.

Attachments

1. Criteria 9.0

Southwest Power Pool Criteria

9.0 BLACK START

This document provides general guidelines to be followed in the event of a partial or complete collapse of the SPP bulk electric system. **For more detailed information please refer to the SPP regional black start plan.** Quick implementation of each Control Area's restoration plan compiled according to this Criteria shall facilitate coordination between member Control Areas and the SPP **Security Coordinator Office** and insure the earliest possible restoration of the electric

system. It is impossible to predict all the possible combinations of system problems which may occur after a major electric system failure. It is therefore the responsibility of system operators to restore the electric system applying the general guidelines outlined in this document and in their respective detailed black start plans. Strict adherence to other SPP Criteria is also necessary for a prompt restoration of the electric system. Mutual assistance between member Control Areas is highly encouraged. This assistance may include the sharing of black start units. The SPP **Security Coordinator Office** shall **take an active role ~~act only as an information coordinator~~** during electric system restoration as outlined in this Criteria. Each Control Area shall have a readily accessible and sufficiently detailed, current restoration plan to assist in an orderly restoration. Restoration shall be aided by communicating to neighboring Control Areas and the SPP **Security Coordinator Office** an accurate assessment of the network conditions throughout the restoration process. Communication shall be established between neighboring operation centers, power plants and the SPP. **Office.** Mutual assistance and cooperation are essential during restoration activities to avoid reoccurrence of a partial or complete electric system collapse.

9.1 Responsibilities

9.1.1 Members

Each member Control Area shall develop and maintain a detailed internal black start plan and train associated personnel (system operators, power plant operators, etc.) in its implementation. Non-Control Area members shall prepare a plan in cooperation with their responsible Control Area designed to assist and coordinate with the Control Area's plan. This applies to cogeneration facilities and independent power producers. A copy of this plan shall be on file at the SPP

Office. Black start plans shall be verified by a minimum of simulation testing, although actual physical testing is highly encouraged where feasible. Members shall report any testing activities of black start plans to the Operating Subcommittee.

~~All energy tagging and normal energy scheduling practices may be ignored in the event of a total system collapse. Generation may be shared on a pro-rata basis between control areas until the following conditions are met as determined by the SPP as Security Coordinator:~~

~~At least 75% of the load in the SPP region has been restored or
At least 75% of the load in a control area has been restored and
A period of 12 hours has elapsed since the blackout occurred~~

In the event of an electric system collapse, each member Control Area shall use the following items as guiding principles for the restoration process.

- a. Provide assistance to any and all SPP members as abilities allow, with priority given to the restoration of inter-system bulk electric system ties.

- b. Take immediate steps to initiate internal restoration plans.
- c. Supply neighboring Control Areas and the SPP ~~Security Coordinator Office~~ with information on network status.
- d. Coordinate with neighbors the re-connection of Control Areas and/or islands,
- e. If it becomes apparent that the emergency is of regional magnitude, the focus of restoration action shall shift from individual Control Area priorities to bulk network priorities. Priority to a neighboring member's load may be necessary in order to benefit the overall strength of the bulk electric system. As generation and transmission facilities become available, systematic restoration of network load shall be initiated with respect to priorities.
- f. ~~Generation should be made available to all regional utilities for system and customer load restoration as recommended by the SPP Security Coordinator.~~

9.1.2 SPP ~~Security Coordinator Office~~

The SPP ~~Security Coordinator Office~~ shall ~~be familiarize associated personnel~~ with each Control Area's black start plan which is on file. In the event of a failure of the bulk electric system, the SPP ~~Security Coordinator Office~~ personnel shall take the following action.

- a. ~~The SPP Security Coordinator has the authority to temporarily suspend energy tagging and normal energy scheduling practices.~~
- b. ~~The SPP Security Coordinator should recommend sharing of generation available to all regional utilities for system and customer load restoration.~~
- ca. Maintain continuous surveillance of the status of the networks of all member Control Areas (~~refer to section 9.4 for information required~~).
- db. Act as a central information collection and dissemination point for members.
- ec. Communicate with other regional offices, NERC and the Federal Emergency Management Administration.
- fd. Communicate/~~recommend~~ the need for assistance to appropriate members.
- ge. ~~If requested,~~ The SPP ~~Security Coordinator Office~~ shall assist Control Areas in a coordinated restoration by monitoring implementation of plans, by providing status information to appropriate Control Areas, and by facilitating assistance and re-connection.
- hf. The SPP ~~Security Coordinator Office~~ shall expect notification of Control Area status from the members. It is necessary that this information be recorded and shared with all members. Based on this information, the SPP ~~Security Coordinator Office~~ shall immediately assess electric system conditions and status of communication facilities and inform all Control Areas of the extent of the blackout (~~refer to section 9.4 for information required~~).

9.2 Elements of Member Black Start Plans

Each member shall maintain a black start plan that is consistent with this Criteria. All plans and procedures shall be readily available to system operators, plant operators and the SPP Office. System operators shall review these documents on a regular basis. It is suggested that member black start plans include the following elements.

- a. Philosophies and strategies for Control Area restart.
- b. Identification of the relationships and responsibilities of the personnel necessary to the restoration.
- c. Identification of black start resources including generating unit resources, sufficient fuel resources, transmission ~~resources~~ ~~corridors or paths~~, communication resources and power supplies, mutual assistance arrangements.
- d. Contingency plans for failed resources.
- e. Identification of critical load requirements.

- f. Identification of special equipment requirements.
- g. Provisions for training of personnel.
- h. Provisions for simulating and where practical, actual testing and verification of the resources and procedures.
- i. General instructions and guidelines for system operators, plant operators, communications personnel, and transmission and distribution personnel.
- j. Provisions for public information.
- k. Synchronization Guidelines

~~The~~ Appendix 4 contains a list of items to be considered in the restoration process which may be used in the development or review of black start plans.

9.3 Restoration Priorities

The following actions for system restoration shall be considered by each Control Area and assigned proper sequence and priority.

- a. Stabilization of generating units.
- b. Restoration of inter-system **and intra-system** bulk electric system ties.
- c. Restoration and maintenance of intra- and inter-system communication facilities and networks.
- d. Assessment of Control Area condition and SPP electric system condition.
- e. Contact with public information agencies (Emergency Broadcasting System) to request the broadcasting of pre-distributed appeals and instructions.
- f. Restoration of units with black start capability.
- g. Providing service to critical electric system facilities.
- h. Connection of islands taking care to avoid reoccurrence of a partial or complete system collapse and equipment damage.
- i. Restoration of service to critical customer loads.
- j. Restore service to the remaining customers.

9.4 Information Communication

Reliable communication between the members and SPP ~~Security Coordinator Office~~ will be the key to a safe and timely restoration following a collapse of the SPP network. As part of the initial assessment after a partial or complete system blackout, communication facilities shall be tested and verified. System operators shall establish communication within their area with special emphasis given to power plants and neighboring members. ~~Should problems be encountered with any primary communication facilities~~ **To expedite the recovery process**, the SPP Emergency Communication Network (**satellite phones**) shall be used to convey ~~the~~ appropriate information **to members. Communication is vital to an orderly recovery. Control Areas are to be prepared to communicate their status once an hour and will be polled by SPP Security Coordinators Operators or whenever any significant change occurs.** Only after voice communication paths have been established shall efforts be directed to re-establishing data communication paths. System status conditions to be surveyed include but are not limited to the following items.

- a. Areas of the electric system which are de-energized,
- b. Areas of the electric system which are functioning,

- c. Amount of generation and generating reserve available in functioning areas,
- d. Power plant availability and time required to restart,
- e. Status of transmission breakers and sectionalizing equipment along critical transmission corridors, and at power plants,
- f. Status of transmission breakers and sectionalizing equipment at tie points to other areas,
- g. Status of fuel supply from external suppliers,
- h. Under-frequency relay operation,
- i. Relay flags associated with circuits tripped by protective relays.
- j. **Status of communication systems**

**Southwest Power Pool
ENGINEERING AND OPERATING COMMITTEE
Recommendation to the Board of Directors
December 11-12, 2001**

REVISIONS TO SPP CRITERIA 10.0

Background

Dependable communication between members and SPP, especially in a partial or complete blackout is critical for system restoration. During the April 28, 2000 conference call, the Security Working Group (SWG) formed the Black Start Study Task Force (BSSTF) to gather and review each SPP Control Area's Black Start Plan and verify that each plan is comprehensive and operationally sound.

Recent Activity

Recent changes in NERC Criteria require each Regional Council to establish, maintain, and verify a system Black Start Plan. During the February 21-22, 2001 meeting, the SWG charged the BSSTF to assemble a Black Start Plan for the SPP region adhering to NERC Criteria, update SPP Criteria 10.0, and develop synchronization guidelines. The BSSTF offered synchronization guidelines, an outline for the regional black start plan, and draft changes to SPP Criteria 10.0 at the June 6-7, 2001 SWG meeting. The SWG offered feedback to the draft changes. The BSSTF made the recommended changes and presented these to the SWG at the August 27-28, 2001 meeting. The SWG suggested minor changes before submitting a recommendation to the EOC at the September 17-18, 2001 meeting.

Analysis

The BSSTF reviewed existing SPP Criteria to identify deficiencies and update Criteria 10.0 to assist expeditious regional system restoration in adherence with NERC Criteria. Minor clarifications were added regarding communication with generating stations and the testing of the SPP emergency communications system. Criteria 10 references Appendix 3 and this Appendix required replacement of the emergency radio instructions with instructions and procedures for the emergency satellite phone system.

Conclusion

The SWG reviewed the draft changes to Criteria 10.0 and offered minor suggestions to this submittal. The BSSTF has incorporated the suggestions of the SWG for Criteria 10.0.

Recommendation

The EOC recommends that the attached revisions be incorporated into SPP Criteria 10.0 and Appendix 3.

REVISIONS TO SPP CRITERIA 10.0

Approved

Black Start Study Task Force

August 2001

Security Working Group

August 2001

Engineering and Operating Committee

October 2001

Action Requested

The Board of Directors is requested to approve the attached revisions to SPP Criteria 10.0 and Appendix 3 as recommended by the EOC.

Attachments

1. Criteria 10.0
2. Appendix 3

10.0 EMERGENCY COMMUNICATION

Dependable communication between members is critical to maintaining a reliable bulk electric system. As part of the initial assessment following a network disturbance or after a partial or complete blackout, communication facilities shall be tested and verified. **Control Area System operators shall establish communication with neighboring members and the SPP- Security Coordinator. Control area operators shall establish contact with power stations.**

10.1 SPP Emergency Communication Network

Should problems be encountered with any primary communication facilities, the SPP Emergency Communication Network shall be used to convey the appropriate information. Communication is vital to an orderly recovery. Priority should be given to establishing voice communication paths prior to re-establishing data communication paths. The SPP Emergency Communication Network is comprised of Satellite Phones located at each Control Area operating center. **General information needed for the configuration and operational instructions for of** these phones is contained in ~~the~~ Appendix 3. During emergency conditions requiring the use of the SPP Emergency Communication Network, the Security Coordinator shall initiate a Group Call and quickly determine the extent of the interruption. Operating personnel shall keep conversations concise to keep channels clear. It is important in emergency situations for system operators to be familiar and comfortable with the phone operation. Each Control Area shall ~~participate~~**participate in the weekly test institute a practice of the utilizing the** SPP Emergency Communication Network. **Each Control Area system operator and the SPP Security Coordinator-operator should become familiar with the operation of the phone. by using it for some standard communication need between neighbors. no less than once a month.** The Security Coordinator shall instigate and monitor this testing and training process.

10.2 Information Priority During Emergencies

System status conditions to be surveyed include but are not limited to the following items:

- a. Areas of the electric system which are de-energized,
- b. Areas of the electric system which are functioning,
- c. Amount of generation and generating reserve available in functioning areas,
- d. Power plant availability and time required to restart,
- e. Status of transmission breakers and sectionalizing equipment along critical transmission corridors, and at power plants,
- f. Status of transmission breakers and sectionalizing equipment at tie points to other areas,
- g. Status of fuel supply from external suppliers,
- h. Under-frequency relay operation,
- i. Relay flags associated with circuits tripped by protective relays.
- j. Status of communication systems.**

**Southwest Power Pool
Finance Working Group Recommendation
To the Board of Directors
December 12, 2001**

2002 Budget

Background

On November 16, 2001 the Finance Working Group chaired by Trudy Harper and consisting of Dick Dixon, Gene Argo, Jim Eckelberger, Harry Skilton and John Marschewski met by conference call to review the SPP 2002 proposed budget prepared by the staff. After review the Finance Working Group recommends approval of the 2002 Administrative Budget of \$28,488,785. Summary pages of that Budget review are attached. Ms. Trudy Harper, interim chair of the Finance Working Group, will present the 2002 Southwest Power Pool Administrative Budget for Board approval.

The recommended 2002 budget is approximately \$8,553,000 over the 2001 budget. The Executive Summary details the reasons for these cost increases. Two new items account for the substantial increase in budgeted expenses: market operations outsourcing contract with Accenture and ESCA software maintenance contract. Staff has estimated income through the transaction fee associated with the regional tariff to be \$7,500,000 in 2002.

This proposed 2002 administrative budget excludes several items staff believes will be required if SPP is to perform the functions required of a RTO. Significant among these items is the development and implementation of a congestion management system. Staff estimates total additional costs required in 2002 to support RTO operations will be \$5,700,000 (includes staffing, capital expenditures, legal costs, etc.).

Recommendation

The Finance Working Group recommends the approval of the 2002 SPP Administrative Budget of \$28,488,785.

Approved: Finance Working Group

11/16/01

Action Requested: Approve Recommendation

2002 PROPOSED ADMINISTRATIVE BUDGET EXECUTIVE SUMMARY

The proposed 2002 administrative budget is \$28.5 million with a net increase of approximately \$8.5 million over the 2001 budget. The 2002 budget reflects tariff income of \$7,500,000, which will not meet 80% of the expenses, therefore resulting in an estimated shortfall for 2002 of \$15.3 million. Two new items account for the substantial increase in budgeted expenses: market operations outsourcing contract with Accenture and Esca software maintenance contract. These items are discussed below and in the body of the budget.

SPP's proposed 2002 administrative budget excludes several items staff believes will be required if SPP is to perform the functions required of a RTO. Significant among these items is the development and implementation of a congestion management system. Staff estimates total additional costs required in 2002 to support RTO operations will be \$5,700,000 (includes staffing, capital expenditures, legal costs, etc.).

Significant budget increases/decreases from the 2001 budget are shown below.

Category 1 - SALARY/EMPLOYEE BENEFITS

(\$3,085,000 Increase; for a 2002 total of \$14,020,000)

Additional Employees – Staff is recommending three new full time employees and justifications for these additions are included in Category 1 detail. The President supports these additions. (\$134,000), a full year with all three positions will be \$171,000)

Compensation Adjustment – The Employee Benefits Working Group reviewed compensation levels for SPP Staff, made a recommendation to the Board of Directors, which was approved, for a 4.5% salary adjustment, excluding the President. (\$433,000 increase over current salary levels)

Employee Benefits WG Incentive Packages – The Employee Benefits Working Group developed an incentive and retention program for SPP Staff which was approved by the Board of Directors. (\$1,142,000)

Welfare Benefits – This line item increased substantially in 2001 due to additional staff and increases in healthcare benefit premiums. We anticipate continued growth in this component during 2002. (\$727,000)

Pension Funding – Additional funding is necessary to maintain the financial integrity of the plan. (\$100,000)

Category 2 - EMPLOYEE TRAVEL EXPENSES

(\$79,000 Increase; for a 2002 total of \$593,500)

The increase is for the anticipated travel expenses for additional staff responsibilities.

2002 PROPOSED ADMINISTRATIVE BUDGET EXECUTIVE SUMMARY

Category 3 - ADMINISTRATIVE

(\$290,400 Increase; for a 2002 total of \$726,400)

Energy usage – Electric utility expense will increase due to the addition of new computer hardware and systems and the necessary heating and cooling needed to ensure its maximum performance. (\$50,000)

Insurance – Premium increases are expected due to increased coverage levels for Directors and Officers coverage and excess liability insurance. Additionally, the 2002 budget includes an estimated premium for credit insurance (originally purchased (unbudgeted) in 2001). (\$230,000)

Category 4 - NERC ASSESSMENT

(\$300,000 Decrease; for a 2002 total of \$900,000)

Category 5 - SPP/NERC MEETINGS

(\$10,000 Increase; for a 2002 total of \$232,000)

Category 6 - COMMUNICATIONS

(\$580,000 Increase; for a 2002 total of \$1,396,000)

SPPNET – Continued upgrade of the frame relay network and attached routers required to meet the current needs of the members. Upgraded routers will result in increased security, decreased failure rates, support the increased bandwidth requirements of the scheduling system, and reduce maintenance costs. (\$300,000)

Redundant SPPNET – The implementation of a redundant SPPNET will provide full redundancy (no single point of failure) at SPP and depending on how the local loops are installed, there would be full redundancy of circuits and hardware at the member sites. (\$175,000)

Category 7 - CAPITAL / OPERATING LEASES AND MAINTENANCE

(\$1,500,000 Increase; for a 2002 total of 4,087,000)

ESCA Software Maintenance – Expenditures cover the standard Alstom ESCA maintenance agreement that provides basic support during normal business hours with no service level criteria. (\$1,500,000)

Category 8 – CAPITAL EXPENDITURES

(\$934,000 Decrease; for a 2002 total of \$2,023,000)

Redundant SPPNET Hardware – Operation of the SPP market systems requires maximum availability of telecommunications. Redundancy is required to insure constant access and flow of information between SPP and the membership (bi-directional exchange of real time data). (\$320,000)

Redundancy / Emergency Backup Site – The SPP Security Working Group authorized the development of an emergency backup site. While it was intended that this project

2002 PROPOSED ADMINISTRATIVE BUDGET EXECUTIVE SUMMARY

would be completed in 2001, the demands placed on the SPP staff by the EMS upgrade and COS/MOS project precluded the assignment of resources to this task. (\$527,000)

Furniture – Replace older modular furniture, plus furnishing the SPP training center. (\$290,000)

Personal Computers – PC replacements are on-going to ensure that employees are furnished with necessary equipment to effectively perform their duties. (\$180,000)

Intrusion Detection System – With the steady increase in internet based viruses, worms, and general hacking attempts, it is critical that SPP acquire and install a good intrusion detection system as part of its protection scheme. (\$100,000)

Category 9 - OUTSIDE SERVICES

(\$4,009,000 Increase; for a 2002 total of \$6,081,000)

Accenture Consulting – On August 30, 2000, the Board of Directors approved the letting of a five-year contract with Accenture for the design and operation of the market settlement system. The approval was on a present value cost amount, which included outsourcing operations of the financial settlement system to Accenture. (\$4,000,000)

Category 10 - MISCELLANEOUS INCOME

(\$223,000 Decrease; for a 2002 total of \$1,570,000)

SPP AEP/Ohio Agreement – The agreement is expected to terminate December 2001 resulting in a reduction in reimbursement income. (\$720,000)

SPPNET Reimbursement – Reimbursement by members of SPPNET and Redundant SPPNET upgrades. (\$530,000)

Category 11 - TARIFF INCOME

(\$1,290,000 increase; for a 2002 total of \$7,500,000)

Tariff income of \$7.5 million is expected to be \$1.3 million more than budgeted for 2001. Most of the excess is attributed to unbudgeted network service. There was also an increase in the yearly firm transmission service due to expiring grandfathered service. No significant increase is expected for 2002 over the projected 2001 level, as the volume of point-to-point transmission service has reached a saturation point.

Category 12 - ASSESSMENTS

(\$7,263,000 Increase; for a 2002 total of \$20,989,000)

The 2002 budget reflects a tariff income of \$7,500,000, which will not meet 80% of the expenses, therefore resulting in an approximate shortfall for 2002 of \$15,291,000.

2002 PROPOSED ADMINISTRATIVE BUDGET EXECUTIVE SUMMARY

RTO RELATED EXPENDITURES

The following items represent expenditures SPP could expect to incur should SPP move forward in gaining RTO status. These items are presented for informational purposes only and are not a part of the SPP 2002 Administrative Budget.

New Employees – Staff recommends the addition of two new full time employees in the Information Technology department. Justification for these positions are provided below. (\$168,896 in full year salaries, benefits, travel expenses)

Information Technology Specialist II (Two positions) - IT

The Manager of Operations has specifically requested additional staff be added to the Information Technology department and be dedicated to the daily support needs of the Operations department. Two new staff are required to provide this programming support. The dedicated analysts will be responsible for ad-hoc programming, database querying and reporting, and other support activities as may be requested by the Manager, Operations. The President recommends in the first quarter the addition of two full time positions at level 40 compensation with the title “Information Technology Specialist II”. One position will report to the Supervisor, EMS and the other to the Supervisor, Applications and Database Development. These staff would be dedicated to the support of Operations department, providing programming and related support to Coordination Center management and staff.

SPP/NERC Meetings – Staff anticipates additional working group and task force meetings in 2002 to develop and implement congestion management procedures. (\$68,400)

Congestions Management – The staff recommends the use of an external software vendor to create the software system to the design approved by the Commercial Practices Committee. The operational cost is not anticipated until 2003. (\$5,000,000)

New Employee PCs – Personal computers to support the two additional information technology staff additions. (\$18,000)

Legal – Anticipate additional legal expense associated primarily with regulatory filings. (\$450,000)

**Southwest Power Pool
President's Report & Budget Comparison
Actual vs. Budgeted Expenses (01/01/01-10/31/01)**

<u>Expenses</u>	<u>Year to Date</u>			<u>End of Year</u>		
	<u>Actual</u> (\$)	<u>Budgeted</u> (\$)	<u>Over/ Under</u> (\$)	<u>Present Estimate</u> (\$)	<u>Budgeted</u> (\$)	<u>Over/ Under</u> (\$)
(1) Salaries/Benefits	7,907,676	8,967,757	1,060,081	9,838,735	10,934,800	1,096,065
(2) Travel Expenses	573,248	440,038	133,210	652,031	514,600	137,431
(3) Administrative	620,180	413,266	206,914	644,446	436,000	208,446
(4) NERC Assessment	758,617	966,667	208,050	958,617	1,200,000	241,383
(5) SPP/NERC Meetings	196,234	194,093	2,141	220,601	222,000	1,399
(6) Communications	545,521	663,126	117,605	691,221	816,250	125,029
(7) Capital / Operating	2,263,471	2,200,238	63,233	2,674,911	2,576,000	98,911
(8) Capital Expenditures	2,639,878	2,699,924	60,046	2,879,078	2,956,600	77,522
(9) Outside Services	1,331,607	1,721,550	389,943	1,678,080	2,072,000	393,920
(10) Miscellaneous Income	1,976,563	1,517,645	458,918	2,243,980	1,792,700	451,280
Net Expenses	14,859,867	16,749,014	1,889,147	17,993,739	19,935,550	1,941,811
<u>Income</u>						
(11) Tariff Income	6,441,869	5,446,087	995,782	7,328,535	6,210,000	1,118,535
(12) Assessments	8,417,999	11,302,927	2,884,928	10,665,204	13,725,550	3,060,346
Net Income	14,859,867	16,749,014	1,889,147	17,993,739	19,935,550	1,941,811

Southwest Power Pool

Board of Directors Summary

Category	2001 Actual vs 2001 Budget				2002 Budget vs 2001 Actual				2002 Budget vs 2001 Budget			
	2001 Present Estimate	2001 Budget	Change	Percent	2002 Budget	2001 Present Estimate	Change	Percent	2002 Budget	2001 Budget	Change	Percent
1 Salaries / Benefits												
Salaries	7,191,502	7,952,100	760,598	(10%)	10,122,670	7,191,502	2,931,168	41%	10,122,670	7,952,100	2,170,570	27%
Payroll Taxes	508,251	538,182	29,931	(6%)	618,746	508,251	110,495	22%	618,746	538,182	80,564	15%
Benefits	1,789,269	1,984,518	195,249	(10%)	2,900,520	1,789,269	1,111,251	62%	2,900,520	1,984,518	916,002	46%
Relocation/Training	349,713	460,000	110,287	(24%)	378,000	349,713	28,287	8%	378,000	460,000	82,000	(18%)
Subtotal	9,838,735	10,934,800	1,096,065	(10%)	14,019,935	9,838,735	4,181,201	42%	14,019,935	10,934,800	3,085,135	28%
2 Employee Travel Expenses	652,031	514,600	137,431	27%	593,520	652,031	58,511	(9%)	593,520	514,600	78,920	15%
3 Administrative	644,446	436,000	208,446	48%	726,400	644,446	81,954	13%	726,400	436,000	290,400	67%
4 NERC Assessment	958,617	1,200,000	241,383	(20%)	900,000	958,617	58,617	(6%)	900,000	1,200,000	300,000	(25%)
5 SPP/NERC Meetings	220,601	222,000	1,399	(1%)	231,600	220,601	10,999	5%	231,600	222,000	9,600	4%
6 Communications	691,221	816,250	125,029	(15%)	1,396,230	691,221	705,009	102%	1,396,230	816,250	579,980	71%
7 Capital/Operating Leases & Maint.	2,674,911	2,576,000	98,911	4%	4,087,200	2,674,911	1,412,289	53%	4,087,200	2,576,000	1,511,200	59%
8 Capital Expendures	2,879,078	2,956,600	77,522	(3%)	2,022,500	2,879,078	856,578	(30%)	2,022,500	2,956,600	934,100	(32%)
9 Outside Services	1,678,080	2,072,000	393,920	(19%)	6,081,100	1,678,080	4,403,020	262%	6,081,100	2,072,000	4,009,100	193%
10 Misc. Income	2,243,980	1,792,700	451,280	25%	1,569,700	2,243,980	674,280	(30%)	1,569,700	1,792,700	223,000	(12%)
Net Expenses	17,993,739	19,935,550	1,941,811	(10%)	28,488,785	17,993,739	10,495,046	58%	28,488,785	19,935,550	8,553,235	43%
11 Tariff Income	7,328,535	6,210,000	1,118,535	18%	7,500,000	7,328,535	171,465	2%	7,500,000	6,210,000	1,290,000	21%
12 Assessments	10,665,204	13,725,550	3,060,346	(22%)	20,988,785	10,665,204	10,323,581	97%	20,988,785	13,725,550	7,263,235	53%
Net Income	17,993,739	19,935,550	1,941,811	(10%)	28,488,785	17,993,739	10,495,046	58%	28,488,785	19,935,550	8,553,235	43%

2002 Budget Forecast

		All Categories						NEW Budget Totals with RTO Items Included		
Category	Description of Category	Actuals	<u>First Quarter</u>	<u>Second Quarter</u>	<u>Third Quarter</u>	<u>Fourth Quarter</u>	<u>Total</u>	<u>RTO Items Only</u>	<u>2001 Actual</u>	
		1999	2,177,329	2,245,284	2,105,554	2,311,646	8,839,813			
		2000	2,774,480	3,402,872	2,550,338	2,841,517	11,569,207			
		2001	3,941,436	4,739,872	4,886,314	4,426,117	17,993,739			
(1)	Salaries/Benefits		3,157,155	4,491,213	3,194,387	3,177,179	14,019,935	165,696	14,185,631	9,838,735
(2)	Travel Expenses		150,930	147,330	146,830	148,430	593,520	3,200	596,720	652,031
(3)	Administrative		389,180	235,740	50,740	50,740	726,400	No Change	726,400	644,446
(4)	NERC Assessment		225,000	225,000	225,000	225,000	900,000	No Change	900,000	958,617
(5)	SPP/NERC Meetings		59,130	59,920	54,945	57,605	231,600	68,400	300,000	220,601
(6)	Communications		348,345	349,695	349,095	349,095	1,396,230	No Change	1,396,230	691,221
(7)	Capital/Operating Leases and Maint.		2,629,725	167,325	1,152,825	137,325	4,087,200	No Change	4,087,200	2,674,911
(8)	Capital Expenditures		975,000	381,500	333,000	333,000	2,022,500	5,018,000	7,040,500	2,879,078
(9)	Outside Services		1,616,800	1,511,800	1,468,500	1,484,000	6,081,100	450,000	6,531,100	1,678,080
(10)	Miscellaneous Income		504,225	359,325	352,525	353,625	1,569,700	No Change	1,569,700	2,243,980
	Net Expenses		9,047,040	7,210,198	6,622,797	5,608,749	28,488,785	5,705,296	34,194,081	17,993,739
(11)	Tariff Income		1,675,000	1,775,000	2,300,000	1,750,000	7,500,000		7,500,000	7,328,535
(12)	Assessments		7,372,040	5,435,198	4,322,797	3,858,749	20,988,785		26,694,081	10,665,204
	Net Income		9,047,040	7,210,198	6,622,797	5,608,749	28,488,785		34,194,081	17,993,739
	Income Applied to:		Current	Accumulative						
	1998 Carryover of		\$2,173,508	\$2,173,508						
	1999 Carryover of		\$4,244,310	\$6,417,818						
	2000 Carryover of		\$3,487,783	\$9,905,601						
	2001 Carryover of		\$7,066,456	\$16,972,057						
	2002 Shortfall of		\$15,291,028	\$32,263,085						

Comparison Of Previous 2002 Budget To Current 2002 Budget

Category	Old 2002 Budget Estimates	New 2002 Budget Estimates	% Change	
(1) Salaries/Benefits	12,383,685	14,019,935	13.2%	Old 2002 budget calculated at 2001 budget plus 10% plus \$161,600 for two new positions. New 2002 budget contains 4.5% merit salary adjustment, three new positions, one position upgrade, incentive and retention programs approved by the Board. Benefit expenses expected to be 29% of salaries vs. 25% of salaries.
Salaries	8,908,910	10,122,670		
Payroll Taxes	805,365	618,746		
Benefits	2,209,410	2,900,520		
Relocation/Training	460,000	378,000		
(2) Travel Expenses	540,365	593,520	9.8%	Old 2002 budget calculated at 2001 budget plus 5%. New 2002 budget approximates actual 2001 travel expenses.
Executive	68,640	131,500		
Legislative/Regulatory	167,440	180,580		
Corp. Services	50,710	40,100		
Coord. Operations	253,575	241,340		
(3) Administrative	479,600	726,400	51.5%	Old 2002 budget calculated at 2001 budget plus 10%. New 2002 budget includes increased D&O and credit insurance coverages.
(4) NERC Assessment	1,600,000	900,000	-43.8%	NERC
(5) SPP/NERC Meetings	238,621	231,600	-2.9%	Old 2002 budget calculated at 2001 budget plus 7.5%. New 2002 budget approximates actual 2001 meeting expenses.
Executive	67,095	25,000		
Legislative/Regulatory	98,406	63,200		
Corp. Services	4,260	14,200		
Coord. Operations	57,860	119,200		
Reimb for Nerc Mtgs	11,000	10,000		
(6) Communications	968,000	1,396,230	44.2%	New 2002 budget contains additional \$400,000 in expenditures for SPPNET and redundant SPPNET.
Coord. Operations	968,000	1,396,230		
(7) Capital/Operating				Old 2002 budget calculated at 2001 budget plus 3% plus \$3,700,000 for payment of principal on the bond issue. New 2002 budget excludes any repayment of the bond principal, interest totals \$1,875,000.
Leases & Maint.	6,524,280	4,087,200	-37.4%	
Corp. Services	505,702	2,390,500		
Coord. Operations	6,018,578	1,696,700		
(8) Capital Expenditures	\$2,031,200	\$2,022,500	-0.4%	Both budgets based on identified needs.
Corp. Services	\$208,800	\$370,000		
Coord. Operations	\$1,572,400	\$1,652,500		
OTS For Training	\$250,000	\$0		
(9) Outside Services	\$6,150,160	\$6,081,100	-1.1%	Old 2002 budget calculated at 2001 budget plus 4% plus \$4,000,000 for outsource of market operations via contract with Accenture. New 2002 budget includes \$246,000 for OATI, and \$200,000 in COSMOS enhancements.
Executive	\$840,000	\$650,000		
Corp. Services	\$74,160	\$75,300		
Coord. Operations	\$5,236,000	\$5,355,800		
(10) Miscellaneous Income	\$1,828,554	\$1,569,700	-14.2%	Old 2002 budget calculated at 2001 budget plus 2%. New 2002 budget excludes income from AEP (Ohio Project) and includes increased income from SPPNET reimbursements (\$526,000).
Miscellaneous Income	\$1,828,554	\$1,569,700		
Net Expenses	\$29,087,357	\$28,488,785	-2.1%	

**Southwest Power Pool
BOARD OF DIRECTORS MEETING
December 12, 2001**

Staff Recommendation on Member Termination

Background

As of December 3, 2001, Enron Power Marketing, Inc. (ENRON) has failed to pay SPP its October and November membership assessments of \$2,076.57 and \$3,104.16 respectively. Given a previous record of timely payments and pursuant to membership agreement requirements (Section 8.10 – Good Faith Efforts), SPP in good faith contacted ENRON representatives on numerous occasions to permit them to fulfill their financial obligations under the membership agreement. SPP Bylaws (Section 7.2 – Assessment) require members to deposit assessments with SPP no later than thirty days after receipt of notification, and if such deposit does not occur within forty days of notification, it shall be considered delinquent and reported to the Board of Directors for appropriate action. On December 2, 2001, ENRON filed for Chapter 11 bankruptcy protection.

Analysis

SPP Bylaws (Section 7.2 – Assessments) provide that the Board of Directors may grant reasonable extensions of time for deposit of delinquent assessments. The Bylaws (Section 2.3 – Removal and Reinstatement) and the Membership Agreement (Section 6.0 – Removal of Members) provide that the Board of Directors may terminate the Membership of any Member for cause including, for example, violation of the SPP Bylaws or nonpayment. A Member terminated by the Board of Directors is obligated to comply with requirements as if it had voluntarily withdrawn from the Membership Agreement, including all financial obligations (see Section 4.2 – Effect of Withdrawal on Contractual Obligations).

ENRON's bankruptcy filing subjected SPP collection of the October and November assessments to the outcome of the related court process. Any future unpaid SPP assessments would not be part of the court docket initiated by ENRON's December 2, 2001 filing. It is highly unlikely that future assessments will be paid and if ENRON wished to terminate its SPP membership, it would have to provide notice by the end of this year for an earliest effective date of October 31, 2002. Until such effective date, financial obligations will continue to be incurred.

Termination of ENRON's membership by the Board of Directors appears to be in the best interest of both ENRON and SPP by ending ENRON's growing debt to SPP as soon as possible. Membership is not a requirement to participate in SPP processes and is not a condition to receive service under the regional transmission tariff. ENRON could apply for reinstatement at a later date provided related conditions are met. If the Board of Directors terminated ENRON's membership, ENRON's financial obligation to SPP, excluding the delinquent assessments, is approximately \$185,000. Staff has contacted ENRON representatives to discuss a membership termination approach but has been unsuccessful in receiving a response.

Recommendation

SPP Staff recommends that the Board of Directors terminate the membership of ENRON, Corp. effective immediately.

Southwest Power Pool, Inc.
BOARD OF DIRECTORS MEETING
December 12, 2001

Staff Presentation on SPP-MISO Consolidation

Background

At the October 17, 2001 meeting, the SPP Board of Directors directed SPP Staff to continue with the negotiations with Midwest ISO for purposes of effecting a consolidation of SPP and MISO, and specifically to develop the definitive documents necessary. In addition, information was requested regarding the similarities/differences in the Membership Agreements and Tariffs of the organizations.

Analysis

Document development is still in progress. The following are included here for consideration:

- **The Purchase and Assumption Agreement** as it currently stands. This document sets out the basic terms of the transaction. The enclosed draft reflects SPP's revisions to MISO's original draft. The exhibits to this agreement (described below) will be executed at closing to complete the transaction.
- **Assumption and Assignment Agreement**. This is a standard document providing for the assignment of SPP's rights and obligations to MISO.
- **Bill of Sale**. This is a standard document providing for the sale of personal property and other assets to MISO.
- **Employment Agreement**. This is a form currently in use at MISO, and would be used for the employment agreements with John Marschewski and Nick Brown.
- **Amended Certificate of Incorporation**. This will be filed to change the name of the resulting company to a name the parties have agreed on.
- **Bylaws**. These are the proposed bylaws for the resulting company. The primary revisions are the Board of Directors composition, the Board of Directors voting requirements for the initial 6-month term, and the Advisory Committee composition.
- **Services Agreement**. This is the proposed contract to be executed between SPP and the resulting company for provision of services for regional reliability council functions.

Also included for consideration:

- **Conditional Withdrawal Agreement**. See discussion below.
- **SPP-MISO Membership Comparison**. This highlights the differences in the respective Membership Agreements.
- **SPP-MISO Tariff Comparison**. This highlights the primary differences in the respective tariffs.

The Membership Agreement for the resulting company is pending. The **SPP-MISO Membership Comparison** indicates that there are no great differences in the terms of our current membership agreements. However, since this document is impacted by the finalization of many of the other documents involved, development of a proposed Membership Agreement for the resulting company was delayed.

A great deal of discussion has ensued in an effort to determine the best method for consolidating the membership of the two organizations. A component of this includes how to incent current SPP Members to participate in the resulting company, as well as to ensure that all obligations to SPP through the closing date are met. To that end, a **Conditional Withdrawal Agreement** has been developed for consideration. This agreement would allow a Member to withdraw from SPP without the usual waiting period. In exchange, the withdrawing Member agrees to an assignment of all obligations between it and SPP to the resulting company.

Next Step

SPP Staff will continue with the development of the transaction documents.

PURCHASE AND ASSUMPTION AGREEMENT

by and between

MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.

and

SOUTHWEST POWER POOL, INC.

dated as of December ____, 2001

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PURCHASE AND ASSUMPTION AGREEMENT

THIS PURCHASE AND ASSUMPTION AGREEMENT (the “Agreement”) dated as of December ____, 2001, is entered into by and between MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC., a not-for-profit, non-stock Delaware corporation (“MISO”), and SOUTHWEST POWER POOL, INC., a nonprofit, non-stock Arkansas corporation (“SPP”).

WHEREAS, MISO desires to purchase from SPP, and SPP desires to sell to MISO all of SPP’s right, title and interest in and to substantially all of SPP’s tangible and intangible assets, on the terms and conditions set forth herein;

WHEREAS, in consideration for MISO’s purchase from SPP of SPP’s assets as described above, MISO agrees to assume from SPP, and SPP agrees to transfer to MISO, all of SPP’s duties and obligations relating to substantially all of its liabilities, on the terms and conditions set forth herein;

WHEREAS, it is the intention of the parties hereto that concurrent with the purchase of assets and assumption of liabilities contemplated by this Agreement, MISO will change its name to a name mutually satisfactory to the Boards of Directors of MISO and SPP, and, as contemplated herein, adopt new bylaws and a new form of membership agreement; and

WHEREAS, the Board of Directors of each of MISO and SPP have determined that it is in the best interests of their respective corporations and their stakeholders to consummate the business transactions contemplated herein, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, MISO and SPP do hereby agree as follows:

ARTICLE I **DEFINITIONS**

1.1 Definitions. As used in this Agreement, the following terms shall have the meanings indicated below:

“Annual Schedule 1 Billing Units” means billing units pursuant to Schedule 1 of the SPP and MISO Open Access Transmission Tariffs as filed with FERC.

“Assets” has the meaning ascribed to it in Section 2.1.

“Assignment and Assumption” means the Assignment and Assumption Agreement for the Assumed Liabilities, in substantially the form attached hereto as Exhibit A, to be delivered at the Closing.

“Assumed Contracts” has the meaning ascribed to it in Section 2.1(h).

“Assumed Liabilities” has the meaning ascribed to it in Section 2.3(a).

“Assumed Real Property Leases” has the meaning ascribed to it in Section 2.1(g).

“Bill of Sale” means the Bill of Sale for the Assets, in substantially the form attached hereto as Exhibit B, to be delivered at the Closing.

“Closing” has the meaning ascribed to it in Section 4.1.

“Closing Date” has the meaning ascribed to it in Section 4.1.

“Code” means the Internal Revenue Code of 1986, as amended, and all regulations, rulings and other official communications promulgated thereunder.

“Contracts” means all written and oral contracts, agreements, leases, employment agreements, consulting agreements and service agreements (excluding Real Property Leases), in each case including all amendments thereto.

“Employee Benefit Plan” means any pension, retirement, deferred compensation, bonus, incentive, performance, medical, hospitalization, vision, dental or other health, life, disability, severance, termination or other employee benefit plan, program, arrangement, agreement or policy, whether written or unwritten, to which the company contributes, is obligated to contribute to, is a party to or is otherwise bound, or with respect to which the company may have any direct or indirect liability.

“Encumbrances” means all liabilities, obligations, pledges, security interests, liens, claims, encumbrances or charges.

“Environmental Law” has the meaning ascribed to it in Section 5.15.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and all regulations, rulings and other official communications promulgated thereunder.

“ERISA Affiliate” means (i) a member of any “controlled group,” as defined in Section 414(b) of the Code, of which the company is a member, (ii) a trade or business, whether or not incorporated, under common control (within the meaning of Section 414(c) of the Code) with the company, or (iii) a member of any affiliated service group (within the meaning of Section 414(m) of the Code) of which the company is a member.

“Excluded Assets” has the meaning ascribed to it in Section 2.2.

“FERC” means the Federal Energy Regulatory Commission of the United States or any successor agency.

“GAAP” means generally accepted accounting principles, consistently applied throughout the specified periods.

“Hazardous Material” has the meaning ascribed to it in Section 5.15.

“Intellectual Property” means all patents and patent rights, trademarks and trademark rights, inventions, service marks, designations, logos, copyrights and copyright rights.

“IRS” means the Internal Revenue Service of the United States.

“Litigation” means any litigation, judicial, administrative or arbitral action, suit, proceeding or claim.

“Material Adverse Effect” means any effect that (i) is material and adverse to the party’s financial condition or results of operations or (ii) materially impairs the ability of the party to consummate the transactions contemplated by this Agreement.

“Material Assumed Contracts” has the meaning ascribed to it in Section 5.9.

“MISO” has the meaning ascribed to it in the forepart of this Agreement.

“MISO Agreement” means the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc.

“MISO Ancillary Agreements” has the meaning ascribed to it in Section 6.2.

“MISO Employees” has the meaning ascribed to it in Section 6.13.

“MISO Financial Statements” means the audited balance sheets of MISO as of December 31, 2000 and 1999 and the related statements of income and members’ equity and of cash flows for the years then ended and the unaudited balance sheet of MISO as of June 30, 2001 and the related statement of income and members’ equity and cash flow for the six months then ended, all as prepared and presented in accordance with GAAP.

“MISO Material Contracts” has the meaning ascribed to it in Section 6.9.

“MISO Members” means those electricity transmission owners and non-transmission owners who are signatories to the MISO Agreement.

“NERC” means the North American Electric Reliability Council or any successor organization.

“Permits” means all permits, licenses, franchises, certificates of authority and other governmental authorizations, approvals and consents.

“Permitted Encumbrances” means (i) the Assumed Liabilities, (ii) liens for Taxes and other governmental charges and assessments which are not yet due and payable or, to the extent listed on Schedule 1.1, which are being contested in good faith, and (iii) liens of landlords and liens of carriers, warehousemen, mechanics and materialmen and other

like liens arising in the ordinary course of business for sums not yet due and payable or, to the extent listed on Schedule 1.1, which are being contested in good faith.

“Real Property Leases” means all real property leases, easements, licenses and other rights in real property.

“Resulting Company” means MISO, as it exists after the Closing and after giving effect to the name, bylaw and membership agreement changes referred to in the forepart of this Agreement.

“Resulting Company Agreement” means the membership agreement to be executed by members of the Resulting Company.

“Retained Liabilities” has the meaning ascribed to it in Section 2.4.

“Services Agreement” means the agreement between SPP and the Resulting Company relating to SPP’s ongoing NERC reliability council functions, in substantially the form attached hereto as Exhibit F, to be delivered at the Closing.

“SPP” has the meaning ascribed to it in the forepart of this Agreement.

“SPP Agreement” means the Southwest Power Pool Membership Agreement, dated July 1999.

“SPP Ancillary Agreements” has the meaning ascribed to it in Section 5.2.

“SPP Business” means the services provided by SPP under the SPP Agreement and SPP Open Access Transmission Tariff, including security coordinator services, transmission services and regional tariff administration and associated services. “SPP Business” does not include services provided solely in connection with SPP’s NERC-related reliability functions.

“SPP Employees” has the meaning ascribed to it in Section 5.13.

“SPP Financial Statements” means the audited balance sheets of SPP as of December 31, 2000 and 1999 and the related statements of income and members’ equity and of cash flows for the years then ended and the unaudited balance sheet of SPP as of June 30, 2001 and the related statement of income and members’ equity and cash flow for the six months then ended, all as prepared and presented in accordance with GAAP.

“SPP Members” means those electricity transmission owners and non-transmission owners who are signatories to the SPP Agreement.

“Tangible Personal Property” means all machinery, mobile or otherwise, equipment (including computer hardware and communications equipment), vehicles, tools, fixtures, leasehold improvements, furniture and furnishings and other personal property.

“Taxes” means all taxes, assessments, fees, interest, penalties and governmental charges.

“Third Party Claims” has the meaning ascribed to it in Section 9.3.

- 1.2** **Interpretation.** In this Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine, and vice versa. The term “includes” or “including” shall mean “including without limitation.” References to a Section, Article, Exhibit or Schedule shall mean a Section, Article, Exhibit or Schedule of this Agreement.

ARTICLE II

PURCHASE AND SALE OF ASSETS AND ASSUMPTION OF LIABILITIES

- 2.1** **Purchase and Sale of Assets.** Upon the terms and conditions herein set forth, SPP hereby agrees to sell, convey, transfer, assign, grant and deliver to MISO, and MISO hereby agrees to purchase, acquire and accept from SPP at the Closing, all of SPP’s right, title and interest in and to all of SPP’s tangible and intangible assets relating to or used in connection with the SPP Business, including, without limitation, those specifically listed below (collectively, the “Assets”):
- (a) all accounts receivable of SPP related to the SPP Business as of the Closing Date;
 - (b) all Tangible Personal Property relating to or used in the operations of the SPP Business, including, without limitation, the items of personal property listed on Schedule 2.1(b);
 - (c) all software owned by or licensed to SPP and used in connection with the SPP Business (to the extent assignable);
 - (d) all Permits used in the conduct of the SPP Business, which Permits are listed on Schedule 2.1(d);
 - (e) all correspondence, data, files and records relating to the Assets or the SPP Business in the possession of SPP or its agents;
 - (f) all Intellectual Property owned by or licensed to SPP and used or generated in connection with the SPP Business, and all pending applications and registrations therefor, including, without limitation, those set forth on Schedule 2.1(f);
 - (g) all Real Property Leases relating to the SPP Business, including, without limitation, the leases listed on Schedule 2.1(g) (the “Assumed Real Property Leases”);
 - (h) all Contracts relating to the SPP Business, including, without limitation, those listed on Schedule 2.1(h) (together with the Assumed Real Property Leases, the “Assumed Contracts”), subject to the provisions of Section 2.3(b); and

- (i) all cash and cash equivalents of SPP related to the SPP Business as of the Closing Date;

in each case, except as set forth in Section 2.2.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in Section 2.1, the assets of SPP set forth on Schedule 2.2, whether or not used in connection with the SPP Business, shall not be included in the Assets and shall be retained by SPP (the “Excluded Assets”).

2.3 Assumption of Liabilities.

- (a) Except as set forth in Section 2.4, MISO shall assume, pay, perform and discharge all obligations, duties and liabilities of SPP of whatever kind or nature relating to the Assets or arising in connection with the operation of the SPP Business, including, without limitation, the following (collectively, the “Assumed Liabilities”):
 - (i) all liabilities and obligations of SPP under the Assumed Contracts, regardless of the time at which such liabilities and obligations were incurred;
 - (ii) all obligations of SPP related to its debt, whether long term or short term, and lines of credit; and
 - (iii) reimbursements due to SPP Members under the SPP Agreement for costs incurred by them prior to the Closing Date for shortfalls of SPP tariff income (i.e., regulatory true-up payments).
- (b) Notwithstanding anything to the contrary contained in Section 2.3(a), neither this Agreement nor any other agreement referenced herein shall constitute an assignment of any contract or right or benefit arising thereunder if such assignment would constitute a breach by SPP thereunder. In the event that SPP does not obtain any consent or waiver for the transfer of any Assumed Contract to MISO (to the extent required by the terms of any such Assumed Contract) prior to the Closing and MISO shall have waived its rights, if any, pursuant to Section 8.1(d), SPP shall continue to use reasonable efforts (not to include the expenditure of any funds or the incurrence of any liabilities) to obtain such consent or waiver and shall use reasonable efforts for a period of six months after the Closing to keep such Assumed Contract in effect for the benefit of the Resulting Company until such consent or waiver is obtained. MISO agrees to indemnify and hold SPP harmless from and against all liabilities arising out of or in relation to SPP’s obligations in respect of the Assumed Contracts under this Section 2.3(b), including, without limitation, any failure of the Resulting Company to fully perform thereunder.

2.4 Retained Liabilities. Notwithstanding anything to the contrary contained in Section 2.3(a), MISO shall not assume, and shall have no liability under or by reason of this

Agreement for any obligations, duties or liabilities of whatever kind or nature relating to (collectively, the “Retained Liabilities”):

- (i) any obligations of SPP under the SPP Agreement related to SPP’s NERC-related reliability functions; and
- (ii) the obligations, duties and liabilities set forth on Schedule 2.4.

ARTICLE III
CONSIDERATION

- 3.1 Consideration for the Assets.** Subject to the terms and conditions of this Agreement, in consideration of the sale, assignment, transfer and delivery of the Assets to MISO, MISO shall assume the Assumed Liabilities pursuant to the Assignment and Assumption.
- 3.2 Allocation of the Consideration.** The parties acknowledge and agree that the consideration shall be allocated for all purposes (including, without limitation, accounting purposes) as indicated on Schedule 3.2 hereto.

ARTICLE IV
THE CLOSING

- 4.1 Closing.** The closing of the purchase and sale of the Assets and assumption of the Assumed Liabilities hereunder (the “Closing”) shall take place on the date (the “Closing Date”) which, unless otherwise mutually agreed by MISO and SPP, will be the last business day of the month following the month in which all of the conditions set forth in Sections 8.1, 8.2 and 8.3 have been either satisfied or waived by the applicable party. The Closing shall take place at a mutually agreeable site to be determined. The Closing shall be effective as of midnight on the Closing Date. All actions taken and documents delivered as of the Closing shall be deemed to have been taken and executed simultaneously, and no action shall be deemed taken nor any document delivered until all have been taken and delivered.
- 4.2 Delivery of Items by SPP.** SPP shall deliver to MISO at the Closing the items listed below, which shall be in form and substance reasonably satisfactory to MISO and its legal counsel:
 - (a) a copy, certified by the Secretary of SPP, of resolutions duly adopted by the Board of Directors of SPP and by the SPP Members authorizing the execution, delivery and performance of this Agreement and the transactions contemplated hereby;
 - (b) a certificate, duly executed by an authorized officer of SPP, certifying as to the matters set forth in Section 8.2(a);

- (c) a certificate of incumbency for the officers of SPP signatory to this Agreement or any SPP Ancillary Agreement, duly certified by the Secretary of SPP;
- (d) the Bill of Sale, duly executed by SPP;
- (e) the Assignment and Assumption, duly executed by SPP;
- (f) copies of the consents, waivers and approvals required to be obtained by SPP listed on Schedule 8.1(b);
- (g) physical possession of the Assets where located;
- (h) the Services Agreement, duly executed by SPP; and
- (i) such other documents, instruments or certificates as MISO may reasonably request.

4.3 Delivery of Items by MISO. MISO shall deliver to SPP at the Closing the items listed below, which shall be in form and substance reasonably satisfactory to SPP and its legal counsel:

- (a) a copy, certified by the Secretary of MISO, of resolutions duly adopted by the Board of Directors of MISO authorizing the execution, delivery and performance of this Agreement and the transactions contemplated hereby;
- (b) a certificate duly executed by an authorized officer of MISO, certifying as to the matters set forth in Section 8.3(a);
- (c) a certificate of incumbency for the officers of MISO signatory to this Agreement or any MISO Ancillary Agreement, duly certified by the Secretary of MISO;
- (d) the Assignment and Assumption, duly executed by MISO;
- (e) copies of the consents, waivers and approvals required to be obtained by MISO listed on Schedule 8.1(b);
- (f) the Services Agreement, duly executed by MISO; and
- (g) such other documents, instruments or certificates as SPP may reasonably request.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF SPP

SPP hereby makes the following representations and warranties to MISO:

5.1 Organization and Good Standing of SPP. SPP is a nonprofit, non-stock corporation, duly organized, validly existing and in good standing under the laws of the State of Arkansas. SPP is, in all material respects, registered or qualified to do business in all jurisdictions in which it is required to do so.

5.2 Powers; Execution. SPP has all requisite corporate power and authority (i) to own and operate the Assets; (ii) to conduct the SPP Business; and (iii) to execute, deliver and perform this Agreement and all other agreements and documents to be executed and delivered by SPP pursuant to this Agreement (such other agreements and documents, the “SPP Ancillary Agreements”). The execution and delivery by SPP of this Agreement and the SPP Ancillary Agreements have been duly and validly authorized by all necessary corporate action on the part of SPP. Assuming due authorization, execution and delivery by MISO, this Agreement is, and, subject to the approval of the SPP Members and Board of Directors, this Agreement and the SPP Ancillary Agreements will be as of the Closing, the valid and binding obligations of SPP, enforceable against SPP in accordance with their respective terms, except to the extent that such enforcement is limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other laws affecting the rights of creditors generally and general equity principles.

5.3 Breach of Statute or Contract.

- (a) Neither the execution and delivery of this Agreement by SPP, nor consummation of the transactions contemplated hereby, nor compliance by SPP with the terms and provisions of this Agreement (i) will, except as set forth on Schedule 5.3(a), (A) violate or conflict with, (B) result in a breach of any of the terms, conditions or provisions of, (C) constitute a default under, or (D) require SPP to obtain any consent, approval or action of, make any filing with or give any notice to any third party under the terms of SPP’s certificate of incorporation or bylaws or any material Contract or other instrument to which SPP is a party or by which SPP is bound; (ii) will result in the creation or imposition of any Encumbrance upon or give to others any interest or rights in or with respect to any of the Assets; or (iii) will violate any law, or any statute or regulation of any governmental authority as such law, statute or regulation relates to SPP, the Assets or the SPP Business.
- (b) With the exception of the FERC and filing of amendments to SPP’s Articles of Incorporation, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any governmental or regulatory body or authority is necessary for the consummation by SPP of the transactions contemplated hereby.

5.4 No Litigation. Except as set forth on Schedule 5.4, there is no pending or, to the knowledge of SPP, threatened Litigation (or, to the knowledge of SPP, any inquiry or investigation of any governmental authority) involving SPP or its directors or officers or that questions the validity of this Agreement, or any action taken, or to be taken, by SPP in connection with this Agreement or that otherwise relates to the Assets or the SPP Business. There is no judgment, order, injunction, decree or award outstanding (whether rendered by a court, administrative agency or arbitrator), against SPP, or by which SPP or any of the Assets is or may be bound which relates to the transactions contemplated by this Agreement, the Assets or the SPP Business.

5.5 Legal Compliance. SPP is not in material violation of any provision of its organizational documents or of any other instrument, permit, decree, or order. SPP has

operated and is currently operating the SPP Business and has maintained the Assets in material conformity with all applicable laws, ordinances, regulations and directives (including, without limitation, those pertaining to public health or worker safety, but excluding those pertaining to the environment or the management of pollution or hazardous materials, which are governed by Section 5.15). SPP has in force all Permits (including environmental Permits) necessary to conduct the SPP Business.

5.6 Financial Statements.

- (a) SPP has delivered to MISO copies of the SPP Financial Statements. The SPP Financial Statements are true and complete in all material respects [and were prepared in accordance with GAAP consistently applied throughout the periods indicated]. The SPP Financial Statements fairly set forth the results of operations and financial position of the SPP Business, for the periods or as of the dates indicated, as applicable.
- (b) Since June 30, 2001, except as set forth on Schedule 5.6(b), SPP (i) has not incurred any obligation or liability (absolute, accrued, contingent or otherwise) whether due or to become due, other than in the ordinary course of business consistent in nature and amount with those incurred in comparable prior periods; (ii) has not mortgaged, pledged or subjected to lien, charge, security interest or any other encumbrance or restriction any portion of the Assets; (iii) has not discharged, satisfied or paid any material lien, charge, encumbrance or other obligation other than those then required to be discharged, satisfied or paid; (iv) has not sold, transferred, leased to others or otherwise disposed of any material portion of its assets other than in the ordinary course of business; (v) has not canceled or compromised any debt or claim owed to SPP or released any right of SPP of material value; and (vi) has not received any notice of termination or non-renewal of any Material Assumed Contract or Permit of SPP.

5.7 Title to and Condition of Assets.

- (a) SPP has good and marketable title to all of the Assets, except for Permitted Encumbrances and except as set forth on Schedule 5.7(a). This Agreement and the instruments of transfer to be executed and delivered pursuant hereto will effectively vest in the Resulting Company good and marketable title to all of the Assets free and clear of all Encumbrances other than the Permitted Encumbrances and except as set forth on Schedule 5.7(a). Except as set forth on Schedule 5.7(a), no SPP Member has any direct ownership interest in any of the Assets, and no other person or entity has any ownership interest in any of the Assets.
- (b) Schedule 5.7(b) is a complete and correct list of all Tangible Personal Property of SPP related to or used in connection with the SPP Business which has a net book value in excess of \$10,000. Each item listed on Schedule 5.7(b) is in good condition and repair (subject to ordinary wear and tear, maintenance and repairs) and all such items are sufficient in the aggregate to operate the SPP Business in the ordinary course.

- (c) SPP does not own any real property.
- 5.8 No Material Adverse Effect** Since June 30, 2001, (i) SPP has conducted the SPP Business in the ordinary course and consistent with past practice and (ii) no event has occurred or circumstance arisen that, individually or in the aggregate, has had or is reasonably likely to have a Material Adverse Effect.
- 5.9 Contracts**. The items listed on Schedule 5.9 include all Contracts and Real Property Leases to which SPP is a party or by which SPP is bound, which relate to the conduct of the SPP Business or SPP's ownership or operation of the Assets. All of the Assumed Contracts (i) which involve a term in excess of one year, (ii) which provide for the receipt or expenditure of funds in excess of \$25,000 in any fiscal year or (iii) the termination of which could reasonably be expected to have a Material Adverse Effect (collectively, the "Material Assumed Contracts") are in full force and effect, and neither SPP, nor, to the knowledge of SPP, any other party thereto, is in default in respect of any of the terms or provisions thereof. Except as listed on Schedule 5.9, there are no disputes or disagreements pending or, to the knowledge of SPP, threatened among SPP, and any other party under any of the Material Assumed Contracts, and, to the knowledge of SPP, there is no basis for any such dispute or disagreement. True and correct copies of the written Assumed Contracts have been delivered or made available to MISO prior to the date hereof.
- 5.10 Intellectual Property**. Except for Intellectual Property licensed from a third party under any of the Assumed Contracts, the Intellectual Property listed on Schedule 2.1(f) (i) includes all of the Intellectual Property necessary to conduct the SPP Business substantially as conducted on the date hereof and (ii) is owned by SPP. Except as indicated on Schedule 5.10, SPP has not granted, licensed, sublicensed, assigned, transferred or otherwise conveyed any right, title or interest in or to any of its Intellectual Property to any other person. None of SPP's Intellectual Property is subject to any pending or, to the knowledge of SPP, threatened challenge or reversion. To the knowledge of SPP, the use of its Intellectual Property by SPP does not infringe on any proprietary right, trademark, trade name or service mark of any other party, nor has SPP received any written notice of any allegation thereof.
- 5.11 Insurance**. Except as set forth on Schedule 5.11, there are no claims which relate to the SPP Business or the Assets currently pending under any of SPP's insurance policies and, to the knowledge of SPP, there is no basis for any such claims. Copies of all of SPP's insurance policies which relate to the SPP Business or the Assets have been delivered or made available to MISO prior to the date hereof.
- 5.12 Related Party Transactions**. Except as set forth on Schedule 5.12, none of the Assumed Contracts is between or among SPP, on the one hand, and any SPP Member or any party in any way affiliated with any SPP Member or SPP, on the other hand.
- 5.13 SPP Employees**. Schedule 5.13 is a complete and correct list of all current employees of SPP as of the date hereof (the "SPP Employees"). Except as set forth on Schedule 5.13 and except as may be otherwise construed by law, all of the SPP Employees are

employed by SPP on an at-will basis and no SPP Employees are party to any collective bargaining or similar agreement. Schedule 5.13 indicates, as to each SPP Employee as of the date hereof, (i) full or part time status; (ii) job title and function; and (iii) date of hire by SPP. Except as set forth in Schedule 5.13, none of the SPP Employees has notified SPP as of the date hereof that such employee intends to terminate his or her employment for any reason other than to accept employment with the Resulting Company.

5.14 Tax Returns and Payments. SPP is a tax-exempt entity for federal tax purposes pursuant to its status under Section 501(c)(6) of the Code. Except as set forth on Schedule 5.14, all tax returns and reports of SPP required to be filed on or before the date hereof have been duly prepared and timely filed on or before such date, and all Taxes, if any, with respect to such returns and reports have been timely paid. All tax returns and reports of SPP required to be filed after the date hereof in respect of any period prior to or through the Closing Date will be duly prepared and timely filed. SPP has fully accrued on its books and has established adequate reserves for all Taxes payable but not yet due. Except as set forth on Schedule 5.14, there are no tax liens on any of the Assets, and there is no basis for the assertion of any such tax liens. Except as set forth on Schedule 5.14, there are no actions or proceedings currently pending or, to the knowledge of SPP, proposed or threatened by any taxing authority against SPP.

5.15 Environmental Matters.

- (a) SPP is in compliance in all material respects with all applicable Environmental Laws in respect of the SPP Business and the Assets.
- (b) SPP has not received notice or indication advising that SPP is or may be responsible for any investigation or response costs with respect to a release, threatened release or cleanup of any Hazardous Materials arising from current or past activities or operations of SPP in connection with the SPP Business.
- (c) For purposes of this Agreement, “Environmental Law” means any law, statute, ordinance, rule, regulation or order relating to human health, safety or protection of the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants or Hazardous Materials in the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), or otherwise relating to the treatment, storage, disposal, transport or handling of Hazardous Material. “Hazardous Material” means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyl (PCBs); (b) any chemicals, materials, substances or wastes which are now or hereafter become defined or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or words of similar import, under any Environmental Law; and (c) any other chemical, material, substance or waste, exposure to which is now or

hereafter prohibited, limited or regulated by any governmental or regulatory authority.

5.16 Employee Benefit Plans.

- (a) Schedule 5.16(a) contains a current, correct and complete list of each Employee Benefit Plan maintained or contributed to by SPP. Copies of the SPP Employee Benefit Plans, including any amendments (and, if applicable, related trust agreements and insurance contracts) have been made available to MISO together with the summary plan description, the most recent determination letter, the most recent annual report (Form 5500 including, if applicable, Schedule B thereto) and the most recent actuarial valuation report prepared in connection with any such plan. SPP does not have any liability with respect to any employee benefit plan, program or arrangement other than with respect to the Employee Benefit Plans listed on Schedule 5.16(a).
- (b) All SPP Employee Benefit Plans conform (and at all times have conformed) in all material respects to, and are being administered and operated (and have at all times been administered and operated) in material compliance with the requirements of all applicable laws including, without limitations, ERISA, the Code and the Age Discrimination in Employment Act, as amended. All returns, reports and disclosures required to be made under ERISA and the Code with respect to the SPP Employee Benefit Plans have been timely filed or made, and all statements made on such returns, reports and disclosures have been true and complete. SPP has not incurred any liability for any tax, excise tax, penalty or fee with respect to any SPP Employee Benefit Plan, and no event has occurred and no circumstance exists or has existed that could give rise to any such liability.
- (c) Any SPP Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Code and exempt from tax under Section 501(a) of the Code has been determined by the IRS to be so qualified. Any such determination that has been issued by the IRS remains in effect and has not been revoked, and with respect to any application that is pending, SPP has no reason to suspect that such application for determination will be denied. Nothing has occurred since the date of any such determination that is reasonably likely to affect adversely such qualification or exemption.
- (d) SPP and its ERISA Affiliates do not sponsor or contribute to, have not in the past sponsored or contributed to, and have no liability with respect to (i) any multi-employer plan (as defined in Section 3(37) of ERISA), or (ii) any non-conforming group health plan (as that term is defined in Code section 5000(c)).
- (e) There are no pending or threatened claims by or on behalf of any such SPP Employee Benefit Plans, or by or on behalf of any individual participants or beneficiaries of any such SPP Employee Benefit Plans, alleging any violation of ERISA or any other applicable laws, or claiming benefit payments (other than those made in the ordinary operation of such plans), nor is there any basis for such

claim. No SPP Employee Benefit Plan is the subject of any pending or threatened investigation, audit, litigation or proceeding by the IRS, the U.S. Department of Labor or the Pension Benefit Guaranty Corporation or any other governmental agency or authority.

- (f) SPP has timely made all required payments and contributions under the SPP Employee Benefit Plans, including the payment of all insurance premiums.
- (g) Except as set forth on Schedule 5.16(g), the execution of this Agreement and performance of the transactions contemplated hereby will not (either alone or on the occurrence of any additional or subsequent events) result in any payment, acceleration, vesting or increase in benefits with respect to any SPP Employee or former employee of SPP.
- (h) SPP does not maintain (and has not maintained) any plan or arrangement that provides post retirement medical benefits, post retirement death benefits or other post retirement welfare benefits, other than to the extent required by Part 6 of Title I of ERISA. SPP does not maintain or contribute to (nor has SPP maintained or contributed to) any “welfare benefit fund” (within the meaning of Section 419 of the Code).
- (i) Any SPP Employee Benefit Plan that is a group health plan (within the meaning of Section 4980D(f)(1) of the Code) complies and has been administered in all material respects in accordance with the applicable requirements of Subtitle K of the Code, Part 7 of Title I of ERISA and all other applicable laws.
- (j) Any SPP Employee Benefit Plan that is a group health plan (within the meaning of Section 4980B(g)(2) of the Code) complies and has been administered in all material respects in accordance with the applicable requirements of Section 4980B of the Code, Part 6 of Title I of ERISA and all other applicable laws.
- (k) No fiduciary, party-in-interest, or disqualified person (as such terms are defined in Section 4975 of the Code and Sections 3(14) and 406 of ERISA) with respect to any SPP Employee Benefit Plan has engaged in any transaction described in Section 406(a) or (b) of ERISA or in any transaction described in Section 4975 of the Code.
- (l) The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby, will not involve any transaction which will be prohibited by Section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975 of the Code.

5.17 Reliance. The foregoing representations and warranties are made by SPP with the knowledge and expectation that MISO is relying thereon in entering into, and performing its obligations under, this Agreement.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF MISO

MISO hereby makes the following representations and warranties to SPP:

- 6.1 Organization and Good Standing of MISO.** MISO is a not-for-profit, non-stock corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware. MISO is, in all material respects, registered or qualified to do business in all jurisdictions in which it is required to do so.
- 6.2 Powers; Execution.** MISO has all requisite corporate power and authority (i) to own and operate its assets; (ii) to conduct its business; and (iii) to execute, deliver and perform this Agreement and all other agreements and documents to be executed and delivered by MISO pursuant to this Agreement (such other agreements and documents, the “MISO Ancillary Agreements”). The execution and delivery by MISO of this Agreement and the MISO Ancillary Agreements have been duly and validly authorized by all necessary corporate action on the part of MISO. Assuming due authorization, execution and delivery by SPP, this Agreement is, and this Agreement and, subject to the approval of MISO’s Members, if required, the MISO Ancillary Agreements will be as of the Closing, the valid and binding obligations of MISO, enforceable against MISO in accordance with their respective terms, except to the extent that such enforcement is limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other laws affecting the rights of creditors generally and general equity principles.
- 6.3 Breach of Statute or Contract.**
- (a) Neither the execution and delivery of this Agreement by MISO, nor consummation of the transactions contemplated hereby, nor compliance by MISO with the terms and provisions of this Agreement (i) will, except as set forth on Schedule 6.3(a), (A) violate or conflict with, (B) result in a breach of any of the terms, conditions or provisions of, (C) constitute a default under, or (D) require MISO to obtain any consent, approval or action of, make any filing with or give any notice to any third party under the terms of MISO’s certificate of incorporation or bylaws or any material Contract or other instrument to which MISO is a party or by which MISO is bound; (ii) will result in the creation or imposition of any Encumbrance upon or give to others any interest or rights in or with respect to any of MISO’s assets; or (iii) will violate any law, or any statute or regulation of any governmental authority as such law, statute or regulation relates to MISO.
- (b) With the exception of the FERC and filing of the amended Certificate of Incorporation for the Resulting Company, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any governmental or regulatory body or authority is necessary for the consummation by MISO of the transactions contemplated hereby.

6.4 No Litigation. Except as set forth on Schedule 6.4, there is no pending or, to the knowledge of MISO, threatened Litigation (or, to the knowledge of MISO, any inquiry or investigation of any governmental authority) involving MISO or its directors or officers or that questions the validity of this Agreement, or any action taken, or to be taken, by MISO in connection with this Agreement or that otherwise relates to MISO's assets or business. There is no judgment, order, injunction, decree or award outstanding (whether rendered by a court, administrative agency or arbitrator), against MISO, or by which MISO or any of its assets is or may be bound which relates to the transactions contemplated by this Agreement or to MISO's assets or business.

6.5 Legal Compliance. MISO is not in material violation of any provision of its organizational documents or of any other permit, decree, or order. MISO has operated and is currently operating its business in material conformity with all applicable laws, ordinances, regulations and directives (including, without limitation, those pertaining to public health or worker safety, but excluding those pertaining to the environment or the management of pollution or hazardous materials, which are governed by Section 6.11). MISO has in force all Permits (including environmental Permits) necessary to conduct its business.

6.6 Financial Statements.

- (a) MISO has delivered to SPP copies of the MISO Financial Statements. The MISO Financial Statements are true and complete in all material respects and were prepared in accordance with GAAP consistently applied throughout the periods indicated. The MISO Financial Statements fairly set forth the results of operations and financial position of MISO's business, for the periods or as of the dates indicated, as applicable.
- (b) Since June 30, 2001, except as set forth on Schedule 6.6(b), MISO (i) has not incurred any obligation or liability (absolute, accrued, contingent or otherwise) whether due or to become due, other than in the ordinary course of business consistent in nature and amount with those incurred in comparable prior periods; (ii) has not mortgaged, pledged or subjected to lien, charge, security interest or any other encumbrance or restriction any portion of its assets; (iii) has not discharged, satisfied or paid any material lien, charge, encumbrance or other obligation other than those then required to be discharged, satisfied or paid; (iv) has not sold, transferred, leased to others or otherwise disposed of any material portion of its assets other than in the ordinary course of business; (v) has not canceled or compromised any debt or claim owed to MISO or released any right of MISO of material value; and (vi) has not received any notice of termination or non-renewal of any material Contract or Permit of MISO.

6.7 Title to and Condition of Assets.

- (a) MISO has good and marketable title to all of its assets, except for Permitted Encumbrances and except for Encumbrances as set forth on Schedule 6.7(a). Except as set forth on Schedule 6.7(a), no MISO Member has any direct

ownership interest in any of MISO's assets, and no other person or entity has any ownership interest in any of such assets.

- (b) Each item of Tangible Personal Property of MISO related to or used in connection with MISO's business is in good condition and repair (subject to ordinary wear and tear, maintenance and repairs) and all such items are sufficient in the aggregate to operate MISO's business in the ordinary course.
- (c) MISO does not own any real property.

6.8 No Material Adverse Effect Since June 30, 2001, (i) MISO has conducted its business in the ordinary course and consistent with past practice and (ii) no event has occurred or circumstance arisen that, individually or in the aggregate, has had or is reasonably likely to have a Material Adverse Effect.

6.9 Contracts. The items listed on Schedule 6.9 include all Contracts and Real Property Leases to which MISO is a party or by which MISO is bound (i) which involve a term in excess of one year, (ii) which provide for the receipt or expenditure of funds in excess of \$25,000 in any fiscal year or (iii) the termination of which could reasonably be expected to have a Material Adverse Effect (collectively, the "MISO Material Contracts"). Such MISO Material Contracts are in full force and effect, and neither MISO, nor, to the knowledge of MISO, any other party thereto, is in default in respect of any of the terms or provisions thereof. Except as listed on Schedule 6.9, there are no disputes or disagreements pending or, to the knowledge of MISO, threatened among MISO, and any other party under any of the MISO Material Contracts, and, to the knowledge of MISO, there is no basis for any such dispute or disagreement. True and correct copies of the written MISO Material Contracts have been delivered or made available to SPP prior to the date hereof.

6.10 Intellectual Property. Set forth on Schedule 6.10 is a listing of the Intellectual Property used by MISO in the conduct of its business which is either licensed from a third party or is owned by MISO, and such Intellectual Property includes all of the Intellectual Property necessary to conduct MISO's business substantially as conducted on the date hereof. Except as indicated on Schedule 6.10, MISO has not granted, licensed, sublicensed, assigned, transferred or otherwise conveyed any right, title or interest in or to any of its Intellectual Property to any other person, and, to the knowledge of MISO, no person or entity other than MISO has any right to use, license, sublicense or operate under any of its Intellectual Property. None of MISO's Intellectual Property is subject to any pending or, to the knowledge of MISO, threatened challenge or reversion. To the knowledge of MISO, the use of its Intellectual Property by MISO does not infringe on any proprietary right, trademark, trade name or service mark of any other party, nor has MISO received any written notice of any allegation thereof.

6.11 Insurance. Except as set forth on Schedule 6.11, there are no claims which relate to MISO's business currently pending under any of MISO's insurance policies and, to the knowledge of MISO, there is no basis for any such claims. Copies of all of MISO's

insurance policies which relate to its business have been delivered or made available to SPP prior to the date hereof.

- 6.12 Related Party Transactions.** Except as set forth on Schedule 6.12, none of the MISO Contracts is between or among MISO, on the one hand, and any MISO Member or any party in any way affiliated with any MISO Member or MISO, on the other hand.
- 6.13 MISO Employees.** Schedule 6.13 is a complete and correct list of all current employees of MISO as of the date hereof (the “MISO Employees”). Except as set forth on Schedule 6.13 and except as may be otherwise construed by law, all of the MISO Employees are employed by MISO on an at-will basis and no MISO Employees are party to any collective bargaining or similar agreement. Schedule 6.13 indicates, as to each MISO Employee as of the date hereof, (i) full or part time status; (ii) job title and function; and (iii) date of hire by MISO. Except as set forth in Schedule 6.13, none of the MISO Employees has notified MISO as of the date hereof that such employee intends to terminate his or her employment.
- 6.14 Tax Returns and Payments.** MISO is a tax-exempt entity for federal tax purposes pursuant to its status under Section 501(c)(4) of the Code. Except as set forth on Schedule 6.14, all tax returns and reports of MISO required to be filed on or before the date hereof have been duly prepared and timely filed on or before such date, and all Taxes, if any, with respect to such returns and reports have been timely paid. MISO has fully accrued on its books and has established adequate reserves for all Taxes payable but not yet due. Except as set forth on Schedule 6.14, there are no actions or proceedings currently pending or, to the knowledge of MISO, proposed or threatened by any taxing authority against MISO.
- 6.15 Environmental Matters.**
- (a) MISO is in compliance in all material respects with all applicable Environmental Laws.
 - (b) MISO has not received notice or indication advising that MISO is or may be responsible for any investigation or response costs with respect to a release, threatened release or cleanup of any Hazardous Materials arising from current or past activities or operations of MISO.
- 6.16 Employee Benefit Plans.**
- (a) Schedule 6.16(a) contains a current, correct and complete list of each Employee Benefit Plan maintained or contributed to by MISO. Copies of the MISO Employee Benefit Plans, including any amendments (and, if applicable, related trust agreements and insurance contracts) have been made available to SPP together with the summary plan description, the most recent determination letter, the most recent annual report (Form 5500 including, if applicable, Schedule B thereto) and the most recent actuarial valuation report prepared in connection with any such plan. MISO does not have any liability with respect to any employee

benefit plan, program or arrangement other than with respect to the Employee Benefit Plans listed on Schedule 6.16(a).

- (b) All MISO Employee Benefit Plans conform (and at all times have conformed) in all material respects to, and are being administered and operated (and have at all times been administered and operated) in material compliance with the requirements of all applicable laws including, without limitations, ERISA, the Code and the Age Discrimination in Employment Act, as amended. All returns, reports and disclosures required to be made under ERISA and the Code with respect to the MISO Employee Benefit Plans have been timely filed or made, and all statements made on such returns, reports and disclosures have been true and complete. MISO has not incurred any liability for any tax, excise tax, penalty or fee with respect to any MISO Employee Benefit Plan, and no event has occurred and no circumstance exists or has existed that could give rise to any such liability.
- (c) Any MISO Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Code and exempt from tax under Section 501(a) of the Code has been determined by the IRS to be so qualified. Any such determination that has been issued by the IRS remains in effect and has not been revoked, and with respect to any application that is pending, MISO has no reason to suspect that such application for determination will be denied. Nothing has occurred since the date of any such determination that is reasonably likely to affect adversely such qualification or exemption.
- (d) MISO and its ERISA Affiliates do not sponsor or contribute to, have not in the past sponsored or contributed to, and have no liability with respect to (i) any multi-employer plan (as defined in Section 3(37) of ERISA), or (ii) any non-conforming group health plan (as that term is defined in Code section 5000(c)).
- (e) There are no pending or threatened claims by or on behalf of any such MISO Employee Benefit Plans, or by or on behalf of any individual participants or beneficiaries of any such MISO Employee Benefit Plans, alleging any violation of ERISA or any other applicable laws, or claiming benefit payments (other than those made in the ordinary operation of such plans), nor is there any basis for such claim. No MISO Employee Benefit Plan is the subject of any pending or threatened investigation, audit, litigation or proceeding by the IRS, the U.S. Department of Labor or the Pension Benefit Guaranty Corporation or any other governmental agency or authority.
- (f) MISO has timely made all required payments and contributions under the MISO Employee Benefit Plans, including the payment of all insurance premiums.
- (g) Except as set forth on Schedule 6.16(g), the execution of this Agreement and performance of the transactions contemplated hereby will not (either alone or on the occurrence of any additional or subsequent events) result in any payment, acceleration, vesting or increase in benefits with respect to any MISO Employee or former employee of MISO.

- (h) MISO does not maintain (and has not maintained) any plan or arrangement that provides post retirement medical benefits, post retirement death benefits or other post retirement welfare benefits, other than to the extent required by Part 6 of Title I of ERISA. MISO does not maintain or contribute to (nor has MISO maintained or contributed to) any “welfare benefit fund” (within the meaning of Section 419 of the Code).
- (i) Any MISO Employee Benefit Plan that is a group health plan (within the meaning of Section 4980D(f)(1) of the Code) complies and has been administered in all material respects in accordance with the applicable requirements of Subtitle K of the Code, Part 7 of Title I of ERISA and all other applicable laws.
- (j) Any MISO Employee Benefit Plan that is a group health plan (within the meaning of Section 4980B(g)(2) of the Code) complies and has been administered in all material respects in accordance with the applicable requirements of Section 4980B of the Code, Part 6 of Title I of ERISA and all other applicable laws.
- (k) No fiduciary, party-in-interest, or disqualified person (as such terms are defined in Section 4975 of the Code and Sections 3(14) and 406 of ERISA) with respect to any MISO Employee Benefit Plan has engaged in any transaction described in Section 406(a) or (b) of ERISA or in any transaction described in Section 4975 of the Code.
- (l) The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby, will not involve any transaction which will be prohibited by Section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975 of the Code.

6.17 **Reliance.** The foregoing representations and warranties are made by MISO with the knowledge and expectation that SPP is relying thereon in entering into, and performing its obligations under, this Agreement.

ARTICLE VII **CONDUCT OF BUSINESS**

7.1 **Conduct of SPP Business.** SPP covenants and agrees with MISO that from the date of this Agreement to the Closing Date, except as expressly contemplated or permitted otherwise by this Agreement or with the prior written consent of MISO:

- (a) The SPP Business will be conducted by SPP in the ordinary course and consistent with past practice, subject to matters beyond SPP’s reasonable control.
- (b) SPP will use all commercially reasonable efforts to preserve the SPP Business, keep available to itself and MISO the present services of the SPP Employees, and preserve for itself and MISO the goodwill of the SPP Members and others with whom business relationships exist.

- (c) SPP shall not amend its certificate of incorporation, bylaws or other organizational documents.
- (d) SPP shall not incur or permit to be incurred any indebtedness, except in the ordinary course and consistent with past practice.
- (e) SPP shall not enter into or, except as may be required by law, modify any SPP Employee Benefit Plan, make any contribution to the SPP Employee Benefit Plans, except as required by the presently existing terms thereof or the policies under which it is operated as of the date hereof.
- (f) SPP shall not change its method of accounting, except as required by changes in laws or regulations or GAAP.
- (g) SPP shall not make any capital expenditures in excess of \$75,000 individually or \$200,000 in the aggregate, other than pursuant to binding commitments existing on the date hereof or as otherwise set forth in SPP's budget for 2002. A copy of SPP's budget for 2002 has been previously provided to MISO.
- (h) SPP will maintain, or cause to be maintained, insurance on the Assets and the SPP Business substantially as in effect as of the date hereof and consistent with commercially reasonable standards.
- (i) No increase in the base pay, commission rate, bonus or other compensation to any of the SPP Employees will be announced, instituted or paid (except for normal increases and earned bonuses given in the ordinary course of business).
- (j) No contract, agreement, arrangement or commitment related to the SPP Business or the Assets will be entered into by SPP outside of the ordinary course of business and consistent with past practice.
- (k) None of the Assumed Contracts will be terminated, extended or amended by SPP in any respect outside of the ordinary course of business and consistent with past practice.
- (l) SPP will notify MISO of the withdrawal of or notice of withdrawal by any SPP Member or the termination of any such membership by the Board of Directors of SPP.
- (m) SPP will use commercially reasonable efforts to maintain the existing good condition and repair of the Assets.
- (n) SPP will not sell, transfer, license, otherwise dispose of (other than in the ordinary course of business), or create or permit to become effective any Encumbrance on, any of the Assets (other than the Permitted Encumbrances), nor will SPP agree or commit to do any of the foregoing.

- (o) Neither SPP nor any of its officers, directors, SPP Employees or representatives will, directly or indirectly, solicit, review, discuss, negotiate or otherwise consider or accept any inquiry or proposal relating to the sale of any of the Assets or the SPP Business without first notifying MISO.

7.2 Conduct of MISO Business. MISO covenants and agrees with SPP that from the date of this Agreement to the Closing Date, except as expressly contemplated or permitted otherwise by this Agreement or with the prior written consent of SPP:

- (a) MISO will conduct its business in the ordinary course and consistent with its stated intent to be operational and administering its regional tariff by December 15, 2001, subject to matters beyond MISO's reasonable control.
- (b) MISO will use all commercially reasonable efforts to preserve its business, keep available to itself the present services of its employees and preserve the goodwill of its members and others with whom business relationships exist.
- (c) MISO shall not amend its certificate of incorporation, bylaws or other organizational documents.
- (d) MISO shall not incur or permit to be incurred any indebtedness, except in the ordinary course and consistent with past practice.
- (e) MISO shall not enter into or, except as may be required by law, modify any MISO Employee Benefit Plan, make any contribution to the MISO Employee Benefit Plans, except as required by the presently existing terms thereof or the policies under which it is operated as of the date hereof.
- (f) MISO shall not change its method of accounting, except as required by changes in laws or regulations or GAAP.
- (g) MISO shall not make any capital expenditures in excess of \$75,000 individually or \$200,000 in the aggregate, other than pursuant to binding commitments existing on the date hereof or as otherwise set forth in MISO's budget for 2002. A copy of MISO's budget for 2002 has been previously provided to SPP.
- (h) MISO will maintain, or cause to be maintained, insurance on its assets and with respect to its business substantially as in effect as of the date hereof and consistent with commercially reasonable standards.
- (i) No increase in the base pay, commission rate, bonus or other compensation to any of the MISO Employees will be announced, instituted or paid (except for normal increases and earned bonuses given in the ordinary course of business).
- (j) No contract, agreement, arrangement or commitment related to MISO's business or its assets will be entered into by MISO outside of the ordinary course of business and consistent with past practice.

- (k) None of the MISO Contracts will be terminated, extended or amended by MISO in any respect outside of the ordinary course of business and consistent with past practice.
- (l) MISO will notify SPP of the withdrawal of any MISO Member or the termination of any such membership by the Board of Directors of MISO.
- (m) MISO will use commercially reasonable efforts to maintain the existing good condition and repair of its assets.
- (n) MISO will not sell, transfer, license, otherwise dispose of (other than in the ordinary course of business), or create or permit to become effective any Encumbrance on any of its assets (other than the Permitted Encumbrances), nor will MISO agree or commit to do any of the foregoing.
- (o) Neither MISO nor any of its officers, directors, employees or representatives will, directly or indirectly, solicit, review, discuss, negotiate or otherwise consider or accept any inquiry or proposal relating to MISO's merger or consolidation without first notifying SPP.

7.3 Access to Information. From the date of this Agreement to the Closing Date, the parties hereto shall provide each other and their representatives with reasonable access, during normal business hours and upon advance notice, to their officers and employees, books, records, properties and operational information in order that each party will have the opportunity to make reasonable investigation. MISO and SPP will engage and cooperate in the operational planning and preparation of an integration and transition plan for the Resulting Company.

7.4 Best Efforts. From the date of this Agreement to the Closing Date, MISO and SPP shall use their respective best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary, including such as are necessary under applicable laws and regulations, to consummate the transactions contemplated by this Agreement.

7.5 Litigation. Between the date hereof and the Closing Date, upon receipt of actual knowledge thereof, each party hereto will promptly advise the other party hereto of the commencement or threat of any Litigation relating to or affecting the transactions contemplated by this Agreement.

ARTICLE VIII **CONDITIONS TO CLOSING; TERMINATION**

8.1 Conditions to the Obligations of Both Parties to Close. The obligations of MISO and SPP to close the transactions contemplated by this Agreement shall be subject to satisfaction or waiver by MISO and SPP of the following conditions at or prior to the Closing:

- (a) No provision of any applicable law or regulation and no judgment, injunction, order or decree shall prohibit the consummation of the transactions contemplated by this Agreement.
- (b) MISO and SPP shall have obtained all regulatory and third-party consents, waivers and approvals necessary to consummate the transactions contemplated by this Agreement and as more fully described on Schedule 8.1(b), each without the imposition of any term or condition that could materially reduce the benefit of the transactions contemplated by this Agreement to MISO and SPP, and any waiting periods in respect thereof shall have expired.
- (c) All amendments to MISO organizational and operational documents contemplated by Section 10.2 hereof shall have been approved and adopted by the MISO Board of Directors and the MISO Members by the requisite vote requirement and become effective, except for such adoption which by its terms cannot become effective until following the Closing.
- (d) MISO shall have begun administering service under the MISO Open Access Transmission Tariff.
- (e) A FERC Order shall have issued allowing the MISO-Alliance RTO super-regional rate to include the SPP footprint.
- (f) A FERC Order shall have issued recognizing the Resulting Company as a Regional Transmission Organization (RTO) in compliance with FERC Order 2000.
- (g) A FERC Order shall have issued accepting the Resulting Company Agreement.

8.2 Conditions to the Obligation of MISO to Close. The obligation of MISO to close the transactions contemplated by this Agreement shall, in addition to satisfaction or waiver by MISO of the conditions set forth in Section 8.1, be subject to satisfaction or waiver by MISO of the following conditions at or prior to the Closing:

- (a) Each of the representations and warranties of SPP made pursuant to this Agreement shall be true and correct as of the date hereof and as of the Closing Date as though made on and as of the Closing Date, except that such representations and warranties expressly made as of a specific date need only be true as of such specified date, and each of the covenants and agreements of SPP to be performed on or prior to the Closing Date shall have been duly performed in all material respects.
- (b) There shall have been no Material Adverse Effect with respect to SPP since June 30, 2001.
- (c) SPP shall have delivered, or caused to be delivered, to MISO at the Closing, duly executed copies of the Bill of Sale, the Assignment and Assumption, the Services Agreement and the other Closing deliveries contemplated by Section 4.2.

- (d) All SPP Members shall have agreed to the termination (subject to and effective as of the Closing) of the SPP Agreement and the assignment to and assumption by the Resulting Company of all rights and obligations thereunder (except such as relate to NERC-related liability council functions), and SPP Members representing at least 174,000 GWh of Annual Schedule 1 Billing Units shall have signed the Resulting Company Agreement, thereby committing to be members of the Resulting Company.
- (e) SPP shall have amended or replaced its articles of incorporation, bylaws and the SPP Agreement to provide that, after the Closing Date, SPP shall provide only NERC-related liability council functions.

8.3 Conditions to the Obligation of SPP to Close. The obligation of SPP to close the transactions contemplated by this Agreement shall, in addition to satisfaction or waiver by SPP of the conditions set forth in Section 8.1, be subject to satisfaction or waiver by SPP of the following conditions at or prior to the Closing:

- (a) Each of the representations and warranties of MISO made pursuant to this Agreement shall be true and correct as of the date hereof and as of the Closing Date as though made on and as of the Closing Date, except that such representations and warranties expressly made as of a specific date need only be true as of such specified date, and each of the covenants and agreements of MISO to be performed on or prior to Closing shall have been duly performed in all material respects.
- (b) There shall have been no Material Adverse Effect with respect to MISO since June 30, 2001.
- (c) MISO shall have delivered, or caused to be delivered, to SPP at the Closing, duly executed copies of the Assignment and Assumption, the Services Agreement and the other Closing deliveries contemplated by Section 4.3.
- (d) MISO Members representing at least 372,000 GWh of Annual Schedule 1 Billing Units shall have signed the Resulting Company Agreement, thereby committing to be members of the Resulting Company.
- (e) The transactions contemplated by this Agreement shall have been approved by the requisite vote of the SPP Members and Board of Directors.

8.4 Effect of Certain Waiver of Closing Conditions. If prior to the Closing, either party hereto has knowledge of any breach by the other party of any representation, warranty or covenant contained in this Agreement and such knowledgeable party proceeds with the Closing, such party shall be deemed to have waived such breach, notwithstanding anything to the contrary herein.

8.5 Termination. This Agreement may be terminated at any time prior to the Closing:

- (a) by the mutual written consent of MISO and SPP;

- (b) by either MISO or SPP in writing if any court or governmental body or agency thereof shall have enacted, promulgated or issued any statute, rule, regulation, ruling, writ or injunction, or taken any other action, (i) restraining, (ii) enjoining, (iii) prohibiting or (iv) otherwise preventing the parties from the practical realization of the benefits contemplated by this Agreement and all appeals and means of appeal therefrom have been exhausted, and, in the case of clause (iv), MISO and SPP have used their respective best efforts to negotiate a mutually-satisfactory alternative, but have failed to reach an agreement on any such alternative;
- (c) by either MISO or SPP in writing if the Closing shall not have occurred by December 31, 2002, unless the action or inaction of the party seeking to terminate was the cause of or resulted in the failure to close the transactions contemplated by this Agreement;
- (d) by either MISO or SPP in writing if the other shall have been in breach of any representation and warranty in any material respect (as if such representation and warranty had been made on and as of the date hereof and on the date of the notice of breach), or in breach of any covenant, undertaking or obligation contained herein, and such breach has not been cured by the earlier of 15 calendar days after giving of notice to the breaching party of such breach or the Closing Date;
- (e) by MISO in writing if the conditions set forth in Sections 8.1 and 8.2 of this Agreement needing to be fulfilled by SPP shall not have been met by SPP or waived by MISO prior to the date fixed for Closing, provided that MISO's failure to perform an obligation in breach of its obligations under this Agreement was not the cause of, or resulted in, SPP's failure to fulfill any such condition; or
- (f) by SPP in writing if the conditions set forth in Sections 8.1 and 8.3 of this Agreement needing to be fulfilled by MISO shall not have been met by MISO or waived by SPP prior to the date fixed for Closing, provided that SPP's failure to perform an obligation in breach of its obligations under this Agreement was not the cause of, or resulted in, MISO's failure to fulfill any such condition.

8.6 **Effect of Termination.** If this Agreement is terminated pursuant to Section 8.5(a) hereof, this Agreement shall forthwith become null and void and there shall be no liability on the part of any party hereto. In the event of any other termination, the parties shall retain any and all rights, claims or causes of action in existence at the time of such termination which are based upon, or arose incidental to a breach of any covenant, representation or warranty made hereunder.

ARTICLE IX **INDEMNITIES**

9.1 **General Indemnification by SPP.** After the Closing Date, SPP agrees, subject to the other provisions of this Article IX, to protect, defend, indemnify and hold harmless the Resulting Company, its members, directors, officers, employees, representatives, agents

and affiliates and their respective successors and assigns, from, against and in respect of any and all losses, costs, damages, charges or expenses of any nature (including reasonable attorney's fees) resulting from or relating to the Retained Liabilities and the Excluded Assets.

- 9.2 General Indemnification by the Resulting Company.** After the Closing Date, the Resulting Company agrees, subject to the other provisions of this Article IX, to protect, defend, indemnify and hold harmless SPP, its members, directors, officers, employees, representatives, agents and affiliates, and their respective successors and assigns, from, against and in respect of any and all losses, costs, damages, charges or expenses of any nature (including reasonable attorney's fees) resulting from or relating to the conduct of the SPP Business or the Assumed Liabilities.
- 9.3 Notification of Claims.** The parties hereto shall provide each other with (a) written notice of all third party actions, suits, proceedings, claims, demands or assessments subject to the indemnification provisions of this Article IX (collectively, "Third Party Claims") brought at any time following the Closing Date within 30 days of the date such Third Party Claim arises, and (b) prompt written notice of all other claims or demands for indemnification pursuant to the provisions of this Article IX; provided, however, that the failure to provide timely notice shall not affect the indemnification obligations of any party except to the extent such party shall have been materially prejudiced as a result of such failure. The party against whom a Third Party Claim is brought shall make available to the indemnifying party all relevant information material to the defense of such claim. The indemnifying party shall have the right to control the defense of all Third Party Claims with counsel of its choice, subject to the indemnified party's right to participate in the defense. The indemnified party shall have the right to elect to join or participate in the defense of any Third Party Claim at its sole expense, and no claim shall be settled or compromised without the consent of the indemnified party, which consent shall not be unreasonably withheld or delayed; provided, however, that in the event consent is so withheld, the indemnifying party shall have no liability in excess of the settlement amount for which consent was sought.
- 9.4 Mitigation, Etc.** Any party seeking indemnification for any damages for which it is entitled to seek indemnification shall use its best efforts to mitigate its damages in connection with such indemnity claim. The indemnification obligation of any party shall be adjusted so as to give credit to such party for (i) any tax benefits, to the party seeking indemnification, calculated at the marginal U.S. federal and state corporate tax rates, resulting from the claim for indemnification, except that tax benefits relating to timing differences shall be valued at net present value with a discount rate equal to the indemnified party's average cost of capital for the previous year, or (ii) any other recovery available to the party being indemnified, including, without limitation, insurance, net of any retro-premium adjustment or similar program or plan, and contractual or other rights to indemnification available from third parties.

ARTICLE X
FURTHER COVENANTS

10.1 Resulting Company Employees.

- (a) The Resulting Company intends to offer employment to all SPP Employees actively employed by SPP and to continue to employ the MISO employees as of the Closing Date, provided that nothing contained herein shall obligate the Resulting Company to continue to employ these employees for any specified period of time following the Closing Date.
- (b) SPP shall affirmatively advise the SPP Employees, in accordance with the requirements of the Worker Adjustment and Retraining Notification Act, that their current positions with SPP will terminate as of the Closing Date and that the Resulting Company intends to offer employment to SPP Employees to commence the day following the Closing Date. The Resulting Company shall be responsible for any other notices required by, and all liabilities arising under, the Worker Adjustment and Retraining Notification Act.
- (c) Following the date hereof, the parties shall permit representatives of SPP and MISO, at reasonable times and upon reasonable notice, to examine and inspect records relating to active employees of both parties and to meet with such employees concerning their employment with the Resulting Company.
- (d) Following the Closing Date, the Resulting Company shall honor in accordance with their respective terms the employment agreements to be entered into, as of the day following the Closing Date, by the Resulting Company and each of James P. Torgerson, John Marschewski and Nicholas A Brown, in substantially the forms attached hereto as Exhibits C-1, C-2 and C-3.
- (e) Effective as of the day following the Closing Date, the Resulting Company shall assume all liability and obligations related to SPP's Employee Benefit Plans. The employee benefits to be provided by the Resulting Company shall, in the aggregate, be comparable in value to the benefits currently enjoyed by the employees of MISO and SPP. Further, the combined benefit program will be sensitive to late-career employees (defined as either those who are within 10 years of their earliest retirement age or those who are within 15 years of their normal retirement age) and will not result in intentional reductions of employee retirement benefits to existing employees of either party who meet this definition. So long as the intent stated in the preceding two sentences is accomplished, the provisions of this Section 10.1(e) do not prohibit the Resulting Company, in the exercise of its reasonable judgment, from adopting, merging, terminating, or otherwise modifying the terms and provisions of any assumed SPP Employee Benefit Plan. Years of service with SPP (as reflected in the records of SPP) will be deemed to be service with the Resulting Company if the former SPP Employee is having his or her benefit moved from the assumed SPP Employee Benefit Plan to a plan maintained by the Resulting Company.

- (f) Except as may be required by law or as may be necessary to preserve an SPP Employee Benefit Plan's tax qualified status under Section 401 of the Code, prior to the Closing Date, neither SPP nor its ERISA Affiliates will adopt, terminate, amend, extend, or otherwise change any SPP Employee Benefit Plan without the prior written consent of MISO and SPP shall give MISO prior written notice of SPP's intention to take any such action required by law or that is necessary to continue the tax qualified status of any SPP Employee Benefit Plan.

10.2 Amendments to Certain MISO Documents. Simultaneously with the Closing, MISO shall amend its certificate of incorporation and its bylaws, and adopt the Resulting Company Agreement in replacement of the MISO Agreement, so as to effect the intentions of the parties hereto and consummate the transactions contemplated by this Agreement. The amended certificate of incorporation and bylaws will be in substantially the form as attached hereto as Exhibits D and E, respectively, and the Resulting Company Agreement shall be in a form mutually acceptable to and approved by the Boards of Directors of MISO and SPP. MISO and SPP agree that the amendment to MISO's certificate of incorporation will include, among other things, the change of the Resulting Company's name to a name mutually acceptable and as agreed to prior to the Closing by the Boards of Directors of MISO and SPP.

10.3 Resulting Company Operations. Following the Closing, the Resulting Company will:

- (a) maintain a significant presence in Little Rock, Arkansas; and
- (b) make available Appendix I of the MISO Agreement (in the form in effect on the date of this Agreement), the proposed memorandum of understanding between SPP and Entergy, or an appropriate substitute to accommodate the business needs of Transcos or ITCs.

10.4 Other Mail and Communications. SPP shall promptly remit to the Resulting Company any checks, cash, payments, mail or other communications relating to the Assets, the SPP Business or the Assumed Liabilities which are received by SPP after the Closing Date. The Resulting Company shall promptly remit to SPP any checks, cash, payments, mail or other communications relating to the Excluded Assets or the Retained Liabilities which are received by the Resulting Company after the Closing Date.

10.5 Taxes. All tax returns and reports of SPP required to be filed after the Closing Date in respect to any period prior to or through the Closing Date will be duly and timely filed by SPP, with the assistance of and at the expense of the Resulting Company. The Resulting Company shall pay when due any Taxes due with regard to such post-Closing filings, and any sales, transfer, excise, value added or other Taxes which may be imposed by any state or governmental agency in connection with the sale and transfer of the Assets to MISO.

10.6 Further Assurances. Upon the request and at the expense of the Resulting Company, but without further consideration, SPP shall do, execute, acknowledge, deliver and file, or shall cause to be done, executed, acknowledged, delivered and filed, all such further acts,

deeds, transfers, conveyances, assignments or assurances as may be reasonably required for the efficient transferring, conveying and assigning to the Resulting Company, or for aiding and assisting in the reducing to possession by the Resulting Company, of any of the Assets.

- 10.7 Expenses and Finder's Fees.** SPP, on the one hand, and MISO, on the other hand, shall each bear their own expenses incurred in connection with the negotiation, execution and performance of this Agreement; provided, however, that any such expenses of SPP that remain unpaid as of the Closing Date shall be included in the Assumed Liabilities to be paid by the Resulting Company. The parties each represent and warrant that they have not engaged or dealt with any broker, investment banker, finder, or agent so as to create or incur any obligation for any brokerage fees, finder's fees or other commissions in connection with this Agreement or the consummation of the transaction contemplated hereby.
- 10.8 Bulk Sales Laws.** MISO hereby waives compliance by SPP with the provisions of any bulk sales, bulk transfer or similar laws applicable to the transfer of the Assets pursuant to this Agreement, and MISO hereby agrees to pay and discharge when due all claims of creditors which could be asserted against MISO by reason of such non-compliance.
- 10.9 Directors.** MISO agrees to take all action necessary to amend its corporate governance documents, effective as of the Closing Date and subject to any required regulatory or member approval, in order to establish for the Resulting Company an eleven person Board of Directors initially consisting of seven members of MISO's Board of Directors (the then-current members of the MISO Board of Directors, excluding the MISO Chief Executive Officer) and four members to be selected by SPP's Board of Directors (from SPP's then duly elected and qualified independent board members) immediately prior to the Closing. In addition, the amendments to the bylaws to control operations of the Resulting Company shall include a provision that for the six (6) months following the Closing Date, any of the following actions of the Resulting Company can be taken only upon two-thirds approving vote of the Directors:
- [To come]
- 10.10 Disclosure Supplements.** From time to time prior to the Closing Date, each party shall promptly supplement or amend any materials previously disclosed and delivered to the other party pursuant hereto with respect to any matter hereafter arising which, if existing, occurring or known at the date of this Agreement, would have been required to be set forth or described in the Schedules delivered to the other party or which is necessary to correct any information in such materials which has been rendered materially inaccurate thereby; no such supplement or amendment to such materials shall be deemed to have modified the representations, warranties and covenants of the parties for the purpose of determining whether the conditions set forth in Sections 8.2(a) and 8.3 (a) hereof have been satisfied.

ARTICLE XI
GENERAL

11.1 Waiver. Any failure of the parties hereto to comply with any of its obligations or agreements or to fulfill any conditions herein contained may be waived only by a written waiver from the other party. No failure by any party hereto to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder by such party preclude any other or future exercise of that right or any other right hereunder by that party.

11.2 Notices. All notices, requests or other communications required or permitted hereunder shall be given in writing by hand delivery, registered mail, certified mail or overnight courier, return receipt requested, postage prepaid, to the party to receive the same at its respective address set forth below, or at such other address as may from time to time be designated by such party to the other in accordance with this Section 11.2:

If to SPP, to: Southwest Power Pool, Inc.
 415 N. McKinley
 Little Rock, Arkansas 72205
 Attn: John Marschewski

with a copy to: Wright, Lindsey & Jennings LLP
 200 West Capitol Avenue
 Suite 2200
 Little Rock, Arkansas 72201
 Attn: John R. Tisdale, Esq.
 Walter E. May, Esq.

If to MISO, to: Midwest Independent Transmission System Operator, Inc.
 701 City Center Drive
 Carmel, Indiana 46032
 Attn: James P. Torgerson

with copy to: Duane Morris
 1667 K Street, N.W., Suite 700
 Washington, D.C. 20006
 Attn: Daniel P. Weitzel, Esq.

All such notices and communications hereunder shall be deemed given when received, as evidenced by the acknowledgment of receipt issued with respect thereto by the applicable postal authorities or the signed acknowledgment of receipt of the person to whom such notice or communication shall have been addressed.

11.3 No Third Party Beneficiaries. Neither this Agreement nor any provision hereof, nor any Schedule hereto or document executed or delivered herewith, shall create any right in favor of or impose any obligation upon any person or entity other than the parties hereto

and their respective successors and permitted assigns other than as set forth in Article IX hereof.

- 11.4 Headings.** Captions and paragraph headings used herein are for convenience only, are not a part of this Agreement and shall not be used in construing it.
- 11.5 Entire Agreement.** The making, execution and delivery of this Agreement by the parties has been induced by no representations, statements, warranties or agreements other than those herein expressed. This Agreement, together with the Exhibits, Schedules and the other agreements and documents referred to herein, embodies the entire understanding of the parties hereto and there are no other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof, except as specifically referenced herein. This Agreement may be amended or modified only by a written instrument signed by the parties. This Agreement supersedes and terminates all prior discussions, negotiations, understandings, arrangements and agreements between the parties relating to the subject matter hereof.
- 11.6 Counterparts.** This Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- 11.7 Assignability.** Neither of the parties hereto may assign this Agreement or its rights and obligations hereunder to any other person or entity without the prior written consent of the other. Any impermissible attempted assignment of this Agreement without such prior written consent shall be void.
- 11.8 Successors and Assigns.** This Agreement and the provisions hereof shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties hereto.
- 11.9 Survival of Representations.** Warranties and Covenants. All representations, warranties and covenants in this Agreement or in any instrument delivered pursuant hereto shall expire on, and be terminated and extinguished, on the Closing Date other than covenants that by their terms are to be performed after the Closing Date, including, without limitation, the covenants set forth in Articles IX and X hereof.
- 11.10 Knowledge.** Except as otherwise expressly provided for herein, the term “SPP’s knowledge,” or words to that effect shall mean the knowledge of the officers and directors of SPP and the term “MISO’s knowledge,” or words to that effect shall mean the knowledge of the officers and directors of MISO, in each case following reasonable inquiry.
- 11.11 Remedies.** The parties acknowledge that either party’s breach of any provision of this Agreement will cause substantial, irreparable harm to the other party, which cannot be adequately compensated by monetary damages alone. In the event of either party’s violation or threatened violation of any provision of this Agreement, such party agrees that the other party, without limiting any other legal or equitable remedies available to it,

shall be entitled to equitable relief by injunction or otherwise from any court of competent jurisdiction.

- 11.12 Governing Law.** The parties hereto have agreed that the validity, construction, operation and effect of any and all of the terms and provisions of this Agreement shall be determined and enforced in accordance with the substantive laws of the State of Delaware without giving effect to principles of conflicts of law thereunder.
- 11.13 Construction.** The parties hereto agree that this Agreement is the product of negotiation between sophisticated parties, each of which were represented by counsel, and each of whom had an opportunity to participate in and did participate in, the drafting of each provision hereof. Accordingly, ambiguities in this Agreement, if any, shall not be construed strictly or in favor of or against any party hereto but rather shall be given a fair and reasonable construction without regard to the rule of contra proferentum.
- 11.14 Public Announcements.** MISO and SPP shall agree with each other as to the form and substance of any press release related to this Agreement or the transactions contemplated hereby, and consult with each other as to the form and substance of other public disclosures which may relate to the transactions contemplated by this Agreement, provided, however, that nothing contained herein shall prohibit either party, following notification to the other party, from making any disclosure which is required by law or regulation.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers the day and year first written above.

**MIDWEST INDEPENDENT
TRANSMISSION SYSTEM
OPERATOR, INC.**

SOUTHWEST POWER POOL, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBITS

- A - Form of Assignment and Assumption Agreement
- B - Form of Bill of Sale
- C - Form of Employment Agreements between the Resulting Company and Messrs.
Torgerson, Marschewski and Brown
- D - Form of Amended Certificate of Incorporation
- E - Form of Amended Bylaws
- F - Form of Services Agreement

SCHEDULES

1.1	--	Permitted Encumbrances
2.1(b)	--	Tangible Personal Property relating to the Business
2.1(d)	--	Permits relating to the Business
2.1(f)	--	Intellectual Property relating to the Business
2.1(g)	--	Assumed Real Property Leases
2.1(h)	--	Contracts relating to the Business
2.2	--	Excluded Assets
2.4	--	Excluded Liabilities
3.2	--	Allocation of the Consideration
5.3(a)	--	Breach of Contract
5.4	--	Litigation
5.6(b)	--	Financial Statements
5.7(a)	--	Title to Assets
5.7(b)	--	Tangible Personal Property in Excess of \$10,000
5.9	--	Contracts
5.10	--	Intellectual Property
5.11	--	Insurance Claims
5.12	--	Related Party Transactions
5.13	--	SPP Employees
5.14	--	Tax Matters
5.16(a)	--	SPP Employee Benefit Plans
5.16(g)	--	Benefit Increase
6.3(a)	--	Breach of Contract
6.4	--	Litigation
6.6(b)	--	Financial Statements
6.7(a)	--	Title to Assets
6.9	--	Contracts
6.10	--	Intellectual Property
6.11	--	Insurance Claims
6.12	--	Related Party Transactions
6.13	--	MISO Employees
6.14	--	Tax Matters
6.16(a)	--	MISO Employee Benefits Plans
6.16(g)	--	Benefit Increase
8.1(b)	--	Consents, Waivers and Approvals

ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** is made and entered into effective as of midnight on _____, 200__, by and between **SOUTHWEST POWER POOL, INC.**, a nonprofit, non-stock Arkansas corporation (“Assignor”) and **MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.**, a not-for-profit, non-stock Delaware corporation (“Assignee”).

RECITALS

A. Pursuant to the Purchase and Assumption Agreement dated as of _____, 200__, by and between Assignor and Assignee (the “Purchase Agreement”), Assignor has agreed to sell, convey, transfer, assign, grant and deliver to Assignee all of the tangible and intangible assets (the “Assets”) relating to or used in connection with the SPP Business (as such term is defined in the Purchase Agreement), other than the Excluded Assets (as such term is defined in the Purchase Agreement).

B. The Purchase Agreement requires Assignor and Assignee to execute and deliver an agreement by which, in exchange for the sale, conveyance, transfer, assignment, grant and delivery of the Assets, Assignee agrees to assume, pay, perform and discharge all obligations, duties and liabilities of Assignor of whatever kind or nature relating to the Assets or arising in connection with the operation of the SPP Business.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in the Purchase Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns, conveys, transfers and sets over to Assignee all of Assignor’s right, title and interest in and to the accounts, accounts receivable, contracts, contract rights, agreements, leases, licenses, permits, franchises, commitments and undertakings listed in Schedule 1 attached hereto, subject to all the restrictions, disabilities, debts, liabilities, duties and obligations of Assignor associated therewith, and Assignee hereby accepts such assignment.

2. Assignee hereby undertakes, assumes, and agrees to pay, perform and discharge all unperformed and unfulfilled debts, liabilities, duties and obligations of Assignor, of whatever kind or nature, relating to the Assets or arising in connection with the operation of the SPP Business, including, without limitation, the following (collectively, the “Assumed Liabilities”):

(a) all liabilities and obligations of Assignor under the Assumed Contracts, regardless of the time at which such liabilities and obligations were incurred;

(b) all obligations of Assignor related to its debt, whether long-term or short-term, and lines of credit; and

(c) reimbursements due to Assignor's Members under the SPP Agreement for costs incurred by them prior to the Closing Date for shortfalls of Assignor's tariff income (i.e., regulatory true-up payments);

and Assignee further agrees that any such debts, liabilities, duties and obligations may be enforced against it to the same extent as if such debts, liabilities, duties and obligations had been incurred or contracted by it; provided, however, that nothing contained herein shall require Assignee to pay or discharge any debts, liabilities, duties or obligations expressly assumed hereby so long as Assignee shall in good faith contest or cause to be contested the amount or validity thereof.

3. This Assignment and Assumption Agreement is made pursuant to, and subject to the terms of, the Purchase Agreement, including, without limitation, the provisions of Section 2.3(b) thereof as to agreements the assignment of which would constitute a breach by Assignor, and the provisions of Article IX thereof as to indemnification. Capitalized terms used in this Assignment and Assumption Agreement (including the Schedule hereto) and not defined herein are used as defined in the Purchase Agreement.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment and Assumption Agreement effective as of the date and year first above written.

ASSIGNOR:

SOUTHWEST POWER POOL, INC.

By: _____
Name: _____
Title: _____

ASSIGNEE:

MIDWEST INDEPENDENT TRANSMISSION
SYSTEM OPERATOR, INC.

By: _____
Name: _____
Title: _____

Schedule 1 to Assignment and Assumption Agreement

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS THAT:

SOUTHWEST POWER POOL, INC., a nonprofit, non-stock Arkansas corporation (“Seller”), for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration in hand paid and delivered by **MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.**, a not-for-profit, non-stock Delaware corporation (“Buyer”), the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, transfer and deliver to Buyer the goods and chattels described on Exhibit A attached hereto and incorporated herein.

TO HAVE AND TO HOLD the same unto the said Buyer and its successors and assigns forever.

Seller does hereby warrant and agree to defend the title to all such property for the benefit of Buyer and its successors and assigns, against all persons whomsoever, except persons claiming under or pursuant to liabilities of Seller which are assumed by Buyer pursuant to the terms of the Purchase and Assumption Agreement dated _____, between Buyer and Seller.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale effective as of midnight on _____, 200__.

SOUTHWEST POWER POOL, INC.

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF PULASKI

On this the ___th day of _____, 200__, before me, a Notary Public, personally appeared _____, who acknowledged that he/she is _____ of Southwest Power Pool, Inc. and that, in such capacity, he/she executed the foregoing instrument for the purposes and consideration mentioned therein.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

Notary Public

EXHIBIT A

Description of Goods and Chattels

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement"), is entered into as of *date* (the "Effective Date"), by and between *Resulting Company name*, a Delaware not-for-profit corporation ("Employer"), and *name* ("Executive").

WITNESSETH

WHEREAS, the Employer desires to secure the services of the Executive as its *title*; and

WHEREAS, the Employer offered the Executive the position of *title*; and

WHEREAS, the Executive accepted the terms of the offer; and

WHEREAS, the parties desire to enter into this Agreement, setting forth the terms and conditions of the employment relationship between the Employer and the Executive;

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, the Employer and the Executive, each intending to be legally bound, hereby agree as follows:

1. **Employment.**

(a) **Position and Duties.** Subject to the terms and conditions of this Agreement, the Employer hereby employs the Executive and the Executive hereby accepts employment with the Employer from the Effective Date hereof through the term of this Agreement. The Executive shall render executive, policy, and other services to the Employer of the type customarily provided by persons serving in similar capacities.

(b) **Full Devotion to Duties.** During the term of this Agreement, the Executive will devote substantially all of his skill, knowledge and working time to the conscientious performance of such duties, except for *XXX (X)* weeks of vacation time annually, absence for sickness or similar disability in accordance with the Employer's paid time off program and applicable law, and authorized leaves of absence. To the extent that it does not significantly interfere with the performance of the Executive's duties hereunder, it shall not be a violation of this Agreement for the Executive to (i) serve on corporate, civic or charitable boards or committees, if and to the extent approved by the Chief Executive Officer, (ii) deliver lectures or fulfill speaking engagements related to the business of the Employer or the electric utility industry, and (iii) provide consultation services to other power systems if, and solely under terms and circumstances, approved by the Chief Executive Officer.

- (c) Place of Employment. During the period of time in which the Executive is employed pursuant to this Agreement (the "Employment Period"), the Executive's services (other than those reasonably requiring travel) shall normally be performed at one of the principal offices of the Employer.
2. Term of Employment. Unless the Executive's employment shall sooner terminate pursuant to Paragraphs 6 or 8, the term of employment under this Agreement shall end on *date*. Such term shall automatically extend for XXX additional year(s) on *date*, and on each *date* thereafter unless the Board or the Executive provides written notice to the other by *date* of any year after 200X that the term of the Agreement is not to be extended.
3. Base Salary. As partial compensation for the services to be performed by the Executive hereunder, the Employer agrees to pay the Executive an annual Base Salary of XXXXX and no/100 Dollars (\$XXXX.00) ("Base Salary"). The Employer will review the Executive's Base Salary annually during the Executive's Employment Period and, in the discretion of the Board, may increase such Base Salary from time to time based upon the performance of the Executive, the financial condition of Employer, prevailing industry salary scales and such other factors as the Board shall consider relevant. Any increase in annual Base Salary shall not serve to limit or reduce any other obligation to the Executive under this Agreement. Participation in any deferred compensation, savings, option arrangements, or other retirement plan, discretionary bonus or other welfare or fringe benefit plan maintained by the Employer for its executives or other employees shall not reduce the Base Salary payable under this Paragraph 3. Amounts withheld by the Employer from the Executive's Base Salary pursuant to an election by the Executive to (i) defer such Base Salary under the terms of any deferred compensation or savings plan maintained or established by the Employer, whether or not qualified under section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"), or (ii) make salary reduction contributions to a flexible benefits program, whether or not a cafeteria plan under Section 125 of the Code, which have been or may come to be maintained or established by the Employer, shall not be considered as reducing Base Salary within the meaning of this Agreement. The Employer shall pay the Executive his Base Salary no less frequently than in monthly installments. All such payments shall have deducted from them any appropriate federal, state, or local withholding taxes, or other taxes or amounts required by law to be withheld.
4. Incentive Compensation. The Executive shall be considered for an annual bonus of XXX percent (XX%) of Base Salary, in accordance with the Employer's Executive Short-Term Incentive Plan, which shall be based upon satisfaction of goals established by the Board. The Executive also will be eligible to participate in any Long-Term Incentive Plan and any Retention Bonus Plan which the Board may establish for the Employer's executive employees, according to the terms established by the Board for each respective Plan. The Executive shall also be entitled during his Employment Period to participate, without discrimination, in all other incentive compensation plans, practices, policies and programs

established for the Employer's executive employees, as such incentive compensation plans, practices, policies and programs may be established and amended by the Employer from time to time, subject to the eligibility and other requirements of such plans and programs.

5. Executive Benefits and Perquisites.

- (a) In General. During his Employment Period, the Executive shall be permitted to participate in any employee benefits, executive benefits, perquisites, practices, policies or programs generally available to executives of the Employer, as the same may be established and amended from time to time.
- (b) Specific Benefits and Perquisites. In addition to the benefits and perquisites set forth in Paragraph 5(a), during his Employment Period Executive shall also be entitled to those benefits listed in Appendix A, which is attached to, and is hereby incorporated into and made a part of, this Agreement.

6. Termination of Employment.

- (a) This Agreement shall terminate upon the Executive's termination of employment with the Employer for any reason, including but not limited to retirement, death or disability. Any purported termination of the Executive's employment (other than by reason of death) shall be communicated by written notice from one party hereto to the other party, according to the provisions of paragraph 16 of this Agreement. Except as otherwise provided in this Agreement, all obligations of the Employer and the Executive under Paragraphs 1 through 5 of this Agreement shall immediately cease upon the date of termination; provided, however, that the Employer shall pay the Executive, and the Executive will be entitled to receive, any accrued, unpaid portion of Base Salary through the date of termination, and all vested, nonforfeitable amounts owing and accrued at the date of termination under any compensation or benefit plan, program, or arrangements in which the Executive theretofore participated, under the terms and conditions of the plans, programs, and arrangements pursuant to which such compensation and benefits were granted.
- (b) Death or Disability. In the event of the Executive's death or if the Executive should become unable to perform the essential functions of his position, with or without reasonable accommodation by the Employer, this Agreement, and the Employer's obligation to make further Base Salary payments under the Agreement, shall terminate, and Executive shall not be entitled to receive severance benefits. Executive shall be entitled to receive any Incentive Compensation which the Executive has earned, if any, prorated to the date of the termination of the Executive's employment by reason of death or the date of termination, due to disability, of

Executive's performance under this Agreement. The Executive's rights to other compensation and benefits shall be determined under the Employer's benefit plans and policies applicable to Executive then in effect.

- (c) Termination for Cause by the Employer. By following the procedure set forth in Paragraph 6(f) the Employer shall have the right to terminate this Agreement and the employment of the Executive for "Cause" in the event Executive:
- (i) has committed a significant act of dishonesty, deceit or breach of fiduciary duty in the performance of the Executive's duties as an employee of the Employer;
 - (ii) has neglected or failed to perform substantially the duties of the Executive's employment under this Agreement;
 - (iii) has acted or failed to act in any other way that reflects materially and adversely upon the Employer, including but not limited to the Executive's conviction of, guilty plea, or plea of nolo contendere to (A) any felony, or any misdemeanor involving moral turpitude, or (B) any crime or offense involving dishonesty with respect to the Employer; or
 - (iv) has knowingly failed to comply with the covenants contained in Paragraph 9 of this Agreement.

If the employment of the Executive is terminated by the Employer for Cause, this Agreement and the Employer's obligation to make further Base Salary and Incentive Compensation payments hereunder shall thereupon immediately terminate, and the Executive shall not be entitled to receive severance benefits. The Executive's rights to other compensation and benefits shall be determined under the Employer's benefit plans and policies applicable to the Executive then in effect.

- (d) Termination for Good Reason by the Executive. By following the procedure set forth in Paragraph 6(f), the Executive shall have the right to terminate this Agreement and the Executive's employment with the Employer for "Good Reason" in the event:
- (i) the Executive is not at all times a duly appointed and functioning Officer of the Employer;
 - (ii) there is a substantial and material reduction in the scope of the Executive's authority and responsibility (provided, however, in the event of any illness or injury which prevents the Executive from performing the Executive's duties, Good Reason shall not exist if the Employer reassigns the Executive's duties to one or more other employees until the Executive is able to perform such duties);

- (iii) there is a reduction in the Executive's Base Salary below the minimum amount specified in Paragraph 3 above; a material reduction in the Incentive Compensation opportunity of the Executive, if any, under Paragraph 4 above; or a material reduction in the other benefits to which Executive is entitled under Paragraph 5(c) above, as compared to the benefits available to Executive at the time of execution of this Agreement; or
- (iv) the Employer otherwise fails to perform its material obligations under this Agreement.

If the employment of the Executive is terminated by the Executive for Good Reason, the Executive shall be entitled to severance benefits as described, and under the conditions set forth, in Paragraph 7 below, but the Employer's obligation to make further Base Salary payments and Incentive Compensation payments shall cease on the effective date of such termination. The Executive's rights to other compensation and benefits shall be determined under the Employer's benefit plans and policies applicable to the Executive then in effect.

- (e) Termination Without Cause or Without Good Reason. The Employer may terminate this Agreement and the Executive's employment without Cause at any time. In the event of a termination without Cause, the Executive shall be entitled to the severance benefits as described, and under the conditions set forth, in Paragraph 7 below. The Executive may voluntarily terminate this Agreement and the Executive's employment without Good Reason at any time, but in such event the Executive shall not be entitled to the severance benefits set forth in Paragraph 7 below. If the Executive voluntarily terminates this Agreement and the Executive's employment without Good Reason, or if the Employer terminates this Agreement and the Executive's employment without Cause, then the Employer's obligation to make further Base Salary payments and Incentive Compensation payments shall cease on the effective date of such termination. The Executive's rights to other compensation and benefits shall be determined under the Employer's benefit plans and policies applicable to the Executive then in effect.
- (f) Notice and Right to Cure. The party proposing to terminate this Agreement and the employment of the Executive for Cause or Good Reason, as the case may be, under Paragraph 6(c) or 6(d) above shall give written notice to the other, specifying the reason therefor with particularity. In the case of a termination pursuant to Paragraphs 6(c)(i), (iii) or (iv), or 6(d)(i), such termination shall be effective immediately upon delivery of such notice. In the case of any other proposed termination for Cause or Good Reason, as the case may be, the notice shall be given with sufficient particularity so that the other party will have an opportunity to correct any curable situation to the reasonable satisfaction

of the party giving the notice within the period of time specified in the notice, which shall not be less than thirty (30) days. If such correction is not so made or the circumstances or situation are not curable, the party giving such notice may, within thirty (30) days after the expiration of the time fixed to correct such situation, give written notice to the other party that the employment is terminated as of the date of that writing. Where the Agreement and the Executive's employment are terminated by the Executive without Good Reason or by the Employer without Cause, the termination date shall be the date on which notification of termination shall be mailed in accordance with Paragraph 16 of this Agreement, unless a different termination date shall be designated by the party giving notice or agreed upon by the Executive and the Employer.

7. Severance Benefits. If this Agreement and the Executive's employment with the Employer are terminated by reason of the Executive's death or disability, by the Employer with Cause, by the Executive without Good Reason, or due to the expiration of the Agreement pursuant to notice by the Executive under Paragraph 2, then the Executive shall receive no severance benefits. If this Agreement and the Executive's employment with the Employer are terminated due to the expiration of the Agreement pursuant to notice by the Board of the Employer under Paragraph 2, by the Employer without Cause, or by the Executive for Good Reason, then the Executive shall be entitled to the following benefits (the "Severance Benefits"), upon his execution of a general release and waiver of claims:
- (a) Base Salary. The Employer shall pay to the Executive the Executive's Base Salary during the portion of the contract term, if any, remaining at the time of termination, but in no event for less than one (1) year (the "Severance Period"); provided, however, that the Severance Period shall in no event exceed thirty (30) months. The Base Salary described in this paragraph shall be paid incrementally, when and as such Base Salary would have been paid under paragraph 3 of this Agreement if the Executive had continued to be employed during the Severance Period, and regardless of the death or disability of the Executive after the date of termination.
 - (b) Incentive Compensation. The Employer shall pay to the Executive, solely in the year of his termination, Short-Term Incentive Compensation payments, calculated at the target rate established for that year. Such payment shall be made to the Executive at the same time and in the same manner that such payments are made to active employees entitled to receive such payments.
 - (c) Continuation of Benefits. During the Severance Period described in paragraph 7 (a) above, the Executive shall be entitled to the continuation of his employee benefits and perquisites as summarized in Paragraph 5 of this Agreement and in items 1 through 4 of Appendix A, specifically

including, but not limited to, continued contributions by the Employer to the Executive's SERP and any other retirement and deferred compensation plan in which the Executive may participate at the time of termination, at the same levels of contribution in effect immediately prior to the date of termination of the Executive's employment. Items 5, 6, and 7 of Appendix A shall not be continued as part of the severance benefits available under this paragraph 7. In the event the continuation of any benefit, or the contribution by the Employer to any plan, is not possible or permitted after termination of employment, then the Employer will exert reasonable efforts to provide a comparable benefit to the Executive. The Executive's medical, dental, and, to the extent practicable, other applicable insurance, shall be continued during the Severance Period at levels substantially similar to the coverage which the Executive was receiving or entitled to receive immediately prior to the date of the termination of the Executive's employment. The Employer shall provide such employee benefits and perquisites to the Executive at Employer expense, subject to the same cost-sharing provisions, if any, applicable to the Executive immediately prior to the date of the termination of employment. Notwithstanding the foregoing, the Executive shall not be entitled to receive continued health care benefits to the extent that the Executive obtains other employment which provides comparable health care benefits during the Severance Period.

- (d) Vesting. At the time of termination, Executive shall be deemed to be 100% vested in his Supplemental Executive Retirement/Savings Plan (SERP) and in any other retirement and deferred compensation plans in which he may participate at the time of termination.
- (e) Outplacement. The Employer will provide the Executive with outplacement services for one year after the termination of employment, at a maximum cost to the Employer of Thirty Thousand Dollars (\$30,000), by an outplacement service provider selected solely by the Employer. Such outplacement services shall include office facilities, administrative support, and such other services as are appropriate for a senior officer of an organization substantially similar to the Employer, as determined by the outplacement service provider selected by the Employer.
- (f) Vacation. Upon termination, the Employer shall pay the Executive for all accrued but unused vacation, as calculated according to the Employer's vacation policy.
- (g) Limitation on Severance Benefits. Notwithstanding any other provision, the following limitations shall apply to Severance Benefits under this Agreement:
 - (i) In the event the Executive at any time violates the provisions of Paragraph 9 of this Agreement, then the Employer's obligations, if

any, to provide Base Salary continuation and other severance benefits as set out in this Paragraph 7 of this Agreement shall cease, and such payments and benefits shall immediately cease, and the Executive shall, in addition to the other remedies provided in Paragraph 9, be required to repay any such payments already received by the Executive.

(ii) In no event shall any of the Severance Benefits described in this paragraph be provided after Executive attains the age of 65.

(h) Expiration of Term of Agreement. At the expiration of the term of this Agreement as defined in Paragraph 2 above, if the Agreement has not been previously terminated under Paragraph 6(b), (c), (d), or (e) of this Agreement, all duties and obligations of the parties under this Agreement, except those set out in Paragraphs 7 and 9, shall cease.

(i) Legal Fees. Any legal fees incurred by the Executive in connection with his execution of the general release and waiver of claims required by this paragraph 7 will be paid by the Employer.

8. Termination of Employment Following Change of Control.

(a) Employer's Obligation. During a period of twelve (12) months following a Change of Control, as defined below, the Employer may unconditionally elect to terminate the Executive's employment, by sending a written notice of such election to the Executive in accordance with the provisions of Paragraph 16 of this Agreement. The Executive may also elect to terminate the Executive's employment during a period of twelve (12) months following a Change of Control, by sending a written notice to the Employer of such election in accordance with the provisions of Paragraph 16, but only in the event that during the twelve (12) months after a Change of Control one of the following occurs: (i) the Executive shall no longer serve as an Officer of Employer; or (ii) there has been a substantial and material reduction in the scope of the Executive's authority and responsibilities; or (iii) the Executive's Base Salary has been reduced below the level stated in Paragraph 3 of this Agreement; or (iv) there is a material reduction in the incentive compensation opportunity, if any, available to the Executive under Paragraph 4 of this Agreement, as compared to the available incentive compensation opportunity in the year before the Change of Control; or (v) there is a material reduction in the other benefits to which the Executive is entitled under Paragraph 5(c) of this Agreement; or (vi) Employer otherwise fails to perform its material obligations under this Agreement.

In the event either party terminates the Executive's employment within twelve (12) months after a Change of Control, then all obligations of the parties under this Agreement shall immediately cease, except those

obligations imposed under Paragraph 9, which shall continue according to their own terms, and the Executive shall not be entitled to benefits under Paragraph 7 of the Agreement. In such event, however, the Executive shall be entitled to receive all amounts due him in accordance with Paragraph 6(a) of the Agreement, as well as payment for all accrued but unused vacation to which the Executive shall be entitled at the time of termination. In addition, upon his execution of a severance agreement, release and general waiver of claims (“Severance Agreement”), the Executive shall be entitled to receive a lump sum payment equivalent to thirty-six (36) months of his base salary, as described in Paragraph 3; plus thirty-six (36) months of short-term incentive compensation, projected at target, as described in Paragraph 4; plus any amounts awarded under the terms of the Special Retention Bonus Plan established by the Board; plus a portion of the target award under any long-term incentive plan in which the Executive is participating at the date of Change of Control. The portion shall be based on a pro-ration of the target payout under each existing cycle of the plan in which the Change of Control occurs. The pro-rata fraction for each cycle of the plan shall be based on the number of complete months of each applicable cycle prior to the date of actual termination divided by the total number of months in each respective cycle. Any legal fees incurred by the Executive in connection with his execution of the Severance Agreement required by this paragraph will be paid by the Employer. In addition, in the event of termination after a Change of Control, the Executive shall be entitled to continuation for thirty-six (36) months of his employee benefits and perquisites as summarized in Paragraph 5 and items 1 through 6 (but excluding item 7) of Appendix A of this Agreement, specifically including, but not limited to, continued contributions by the Employer to the Executive’s SERP and any other retirement and deferred compensation plan in which the Executive may participate at the time of termination, at the same levels of contribution in effect immediately prior to the date of termination of the Executive’s employment. In the event the continuation of any benefit, or the contribution by the Employer to any plan, is not possible or permitted after termination of employment, then the Employer will exert reasonable efforts to provide a comparable benefit, or equivalent value, to the Executive. Such salary, long- and short-term compensation payments, and employee benefits and perquisites shall be calculated at the rates and, to the extent practicable, at the levels in effect on the date of termination. In addition, the Employer will provide the Executive with outplacement services for one year after the termination of employment following a Change of Control, at a maximum cost to the Employer of Thirty Thousand Dollars (\$30,000), by an outplacement service provider selected solely by the Employer. Such outplacement services shall include office facilities, administrative support, and such other services as are appropriate for a senior officer of an organization substantially similar to the Employer, as determined by the outplacement service provider

selected by the Employer. In addition, at the time of termination, the Executive shall be deemed to be 100% vested in his SERP and in any other retirement and deferred compensation plan in which he may participate at the time of termination.

The Employer shall not be required to continue any benefits substantially similar to any benefits which may be provided by a subsequent employer of the Executive during the period following termination of employment due to a Change of Control, in which the Employer provides payments or benefits to the Executive under this Paragraph 8(a). Notwithstanding any other provision of this Agreement, all payments and benefits described in this Paragraph 8(a) shall cease when Executive reaches the age of 65. The parties further agree that if the Executive violates the covenants set forth in Paragraph 9 during the period following termination in which the Executive would otherwise receive payments and benefits under this Paragraph 8(a), the payments and benefits provided for in this paragraph shall immediately cease and, in addition to the remedies provided in Paragraph 9, the Executive shall repay to the Employer any such payments already received by the Executive.

- (b) Definition of Change of Control. For purposes of Paragraph 8(a), "Change of Control" means:
- (i) the Board approves a dissolution of the Employer, or a sale, lease, transfer, exchange or disposition of more than 50% of the Employer's assets; **or**
 - (ii) the Board approves a filing with the Federal Energy Regulatory Commission ("FERC"), that is accepted by the FERC and that results in the transfer to another entity of more than 50% of the Employer's employees; **or**
 - (iii) the membership of the Employer changes so that, following the change, the entities who were members of the Employer on the Effective Date possess fewer than 50% of the membership interests in the Employer; **or**
 - (iv) the Board approves a merger or consolidation in which the members of the Employer as of the Effective Date receive fewer than 50% of the membership interests in the surviving Employer; **or**
 - (v) the members of the Employer effect a single change in the composition of the Board, so that after the change, a majority of the Board is composed of individuals, none of whom have been directors prior to the change; **or**

- (vi) the FERC takes action, whether in response to a third party filing or on its own initiative, that results in (A) the transfer of the Employer's responsibility for security coordination, market monitoring and tariff administration to another entity, or (B) the removal of more than 50% of the circuit miles of transmission facilities previously committed to the functional operational control of the Employer, or (C) the withdrawal of transmission owner members of the Employer that represent more than 50% of the aggregate noncoincident peak load of all transmission owner members, as such load was reported for the most recent calendar year on Form 1 to the FERC, on Form 12 to the Rural Utilities Service, or in any other comparable public report quantifying peak load.

Should any of the events described in paragraph 8(b)(vi) occur, then a substantial and material reduction in the scope of the Executive's authority and responsibilities within the meaning of paragraph 8(a)(ii) shall be deemed to have occurred.

9. Non-Inducement, Non-Disclosure, and the Executive's Cooperation.

- (a) Non-inducement. The Executive hereby agrees that for a period commencing on the date the Executive terminates employment with the Employer and ending on the second anniversary of such date, the Executive shall not induce, or attempt to influence, any executive or other employee of the Employer to terminate his or her employment with the Employer or any entity related to the Employer, unless authorized in writing by the Board to do so.
- (b) Non-Disclosure. The Executive shall keep secret and retain in strictest confidence, and shall not at any time, without the prior written consent of the Board, furnish, make available or disclose to any third party or use for the benefit of the Executive or any third party, any Confidential Information. As used in this Paragraph, "Confidential Information" shall mean any information relating to the business or affairs of the Employer, or any member of the Employer, including but not limited to information relating to financial statements, employees, suppliers, servicing methods, equipment, programs, strategies and information, analyses, profit margins or other proprietary information used by the Employer in connection with its business; provided, however, that Confidential Information shall not include any information which is in the public domain or becomes known in the industry, unless such industry knowledge occurs through a wrongful act on the part of the Executive. The Executive acknowledges that the Confidential Information is vital, sensitive, confidential and proprietary to the Employer. It is agreed that Confidential Information, as herein described, shall be protected from disclosure under the terms of this

Agreement, to the maximum extent permitted by law, whether or not entitled to protection as a trade secret.

- (c) Cooperation With Regard to Litigation. The Executive agrees to cooperate with the Employer, after the termination of the Executive's employment, by making himself available to testify on behalf of the Employer, in any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, and to assist the Employer in any such action, suit, or proceeding, by providing information and meeting and consulting with the Board and its representatives or counsel, or representatives or counsel of or to the Employer, as requested. The Employer agrees to reimburse the Executive for all expenses actually incurred in connection with the Executive's provision of testimony or assistance, and for the time expended by Executive in providing such testimony or other assistance. Compensation for the Executive's time shall be calculated according to an hourly rate commensurate with the rate of the Executive's salary paid immediately prior to the termination of the Executive's employment.
 - (d) Remedies. The Executive acknowledges and agrees that the covenants set forth in this Paragraph are reasonable and necessary for the protection of the Employer's business interests, that irreparable injury will result to the Employer if the Executive breaches any of the terms of such covenants, and that in the event of the Executive's actual or threatened breach of any such covenants, the Employer will have no adequate remedy at law. The Executive accordingly agrees that in the event of any actual or threatened breach by him of any of such covenants, the Employer shall be entitled to immediate temporary injunctive and other equitable relief, without the necessity of showing actual monetary damages, subject to hearing as soon thereafter as possible.
 - (e) Survival. The provisions of this Paragraph shall survive the termination or expiration of this Agreement.
 - (f) Repayment. The parties agree that, if the Executive violates any of the covenants set forth in this Paragraph 9, or any of its subparts, during the Severance Period described in Paragraph 7(a), such payments shall immediately cease and, in addition to the remedies provided in Paragraph 9, the Executive shall be required to repay any such payments already received by the Executive.
10. Entire Agreement. Except as otherwise expressly provided herein, this Agreement constitutes the entire agreement among the parties hereto with respect to the subject matters hereof, and all contracts, promises, representations, understandings, arrangements and prior agreements relating to such subject matters are merged herein and superseded hereby.

11. Successors and Assigns. This Agreement is personal to each of the parties hereto. Except as provided in this Paragraph, neither party may assign or delegate any of the rights or obligations described herein without first obtaining the written consent of the other party. However, in the event of the sale of the business and/or the assets of the Employer or the merger of the Employer into, or consolidation of the Employer with, another entity, the Employer's interest and obligations hereunder shall be deemed assigned to and assumed by the Employer's successor and shall inure to the benefit of and be binding on such successor. In addition, in the event of the Executive's death, and to the extent permitted by law, any surviving right of the Executive to receive payments hereunder shall become the rights of the Executive's personal representative.
12. Arbitration. Any dispute or controversy arising under or in connection with this Agreement (except in connection with any request for injunctive relief contemplated by Paragraph 9) shall be resolved by binding arbitration. The arbitration shall be held in the city of Indianapolis, and except to the extent inconsistent with this Agreement, shall be conducted in accordance with the American Arbitration Association's National Rules for the Resolution of Employment Disputes (the "AAA Employment Rules") then in effect at the time of the arbitration, and otherwise in accordance with principles which would be applied by a court of law or equity. The arbitrator shall be acceptable to both Employer and the Executive, and shall be chosen by the parties according to the AAA Employment Rules. Any expense of arbitration shall be borne by the party who incurs such expense, except that in all cases the Employer shall pay the arbitrator's fee, and except that the Employer shall pay the legal fees incurred by the Executive in any arbitration concerning the termination of Executive's employment or the benefits due to the Executive upon such termination. The Employer and the Executive hereby agree that a judgment upon an award rendered by the arbitrators may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
13. Governing Law. This Agreement is governed by and is to be construed, administered, and enforced in accordance with the laws of the State of XXX, without regard to XXX conflicts of law principles, except insofar as federal laws and regulations may be applicable.
14. Amendments. No provision of this Agreement may be modified or waived unless such modification or waiver is approved in writing by the Board or a person authorized thereby and is agreed to in writing by the Executive and such officer as may be specifically designated by the Board.
15. Severability. In the event that any one or more of the provisions of this Agreement shall be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

16. Notices. Any notice or other communication required or permitted to be delivered under this Agreement shall be (a) in writing, (b) delivered personally, by courier service or by certified or registered mail, first-class postage prepaid and return receipt requested, and (c) addressed as follows (or to such other address as the party entitled to notice shall hereafter designate in accordance with the terms hereof): (i) to the Employer, at *Resulting Company name*, to the attention of the Chairman of its Board at one of its principal offices; and (ii) to the Executive, at the Executive's home address listed on the signature page hereof, or the address provided by notice to the Employer, as set forth in this Paragraph, following the Executive's relocation.
17. No General Waivers. The failure of either party at any time to require performance by the other party of any provision hereof or to resort to any remedy provided herein at law or in equity shall in no way affect the right of such party to require such performance or to resort to such remedy at any time thereafter, nor shall a waiver by either party of a breach of any of the provisions hereof be deemed to be a waiver of any subsequent breach of such provisions. No such waiver shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No waiver of any provision of this Agreement shall be implied from any course of dealing between or among the parties hereto.
18. Authority. The Employer represents and warrants that this Agreement has been authorized by all necessary corporate action of the Employer and is a valid and binding agreement of the Employer enforceable against it in accordance with its terms. The Executive represents and warrants that the Executive is not a party to any agreement or instrument which would prevent the Executive from entering into or performing under this Agreement.
19. Headings. The section and other headings contained in this Agreement are for the convenience of the parties only and are not intended to be a part hereof or to affect the meaning or interpretation hereof.

IN WITNESS WHEREOF AND INTENDING TO BE LEGALLY BOUND HEREBY, the Employer has executed this Agreement by its duly authorized representative and the Executive has personally executed this Agreement, in each case effective as of the date first above written.

RESULTING COMPANY NAME

By: _____

Name:

Title:

THE EXECUTIVE:

Name

Address

Address

APPENDIX A

The Executive shall be eligible to participate in the following employee benefits:

1. The group medical and dental benefits provided by the Employer.
2. Group Short Term and Long Term Disability insurance provided by the Employer. Long Term Disability benefits shall not be less than XX% of the Executive's base salary per year, up to a maximum benefit of \$XXX per month.
3. Death benefit under a term life insurance policy, for a death benefit of two (2) times the Executive's base salary at time of death.
4. Participation in the *Resulting Company name* Supplemental Executive Retirement Plan, upon approval of the Board.
5. An automobile allowance of up to \$XXX per year.
6. Participation in the *Resulting Company name* Executive Flex Program, with a maximum annual allowance of \$XXX per year.
7. Reimbursement for certain expenses the Executive incurs in conjunction with the performance of duties under the Agreement.

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
Resulting Company Name

1. **Name of corporation.** The name of the corporation is *Resulting Company Name*.
2. **Address.** The address of the registered office of the corporation in the State of Delaware is:

The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
City of Wilmington
County of New Castle

3. **Nature or purpose of the business of the corporation.**

- A. The purpose of the corporation is to promote the social welfare by providing transmission services associated with electric energy, operating a related security center, and taking other actions necessary for reliable transmission operations in furtherance of the public policy reflected in: (i) the Order of the Federal Energy Regulatory Commission (herein "FERC"), designated Order No. 888, 61 Fed. Reg. 21,540 (1996); (ii) other orders of the FERC related thereto; and (iii) such orders of the FERC as may concern the organization and operation of the corporation.
- B. To take any other action determined appropriate by the members or board of directors for the purpose of facilitating the foregoing purposes.
- C. The foregoing enumeration of purposes shall not be construed to limit or restrict the general powers otherwise conferred upon the corporation by the laws of the State of Delaware.
- D. The corporation shall not participate in any activity or take any action inconsistent with tax exempt status under Section 501(c)(4) of the Internal Revenue Code ("IRC")(or the corresponding provision of an United States Internal Revenue law enacted in the future) or other subsection under Section 501(c) of the IRC (or the corresponding provision of any United States Internal Revenue law enacted in the future) under which the Internal Revenue Service may recognize that the corporation is exempt from federal income taxation. No part of the net earnings, if any, of the corporation shall inure to the benefit of any member, director, officer, employee of the corporation, or any other private person. The corporation is authorized and empowered to pay

reasonable compensation for services actually rendered and to make payments in furtherance of the purposes and objectives set forth herein. No substantial part of the activities of the corporation shall be carrying on propaganda or otherwise attempting to influence legislation other than as permitted under Section 501(h) of the IRC (or the corresponding provisions of any United States Internal Revenue law enacted in the future). The corporation shall not participate in or intervene in any political campaign on behalf of any candidate for public office.

- E. Upon the dissolution of the corporation, the board of directors shall, after paying or making provision for payment of all the liabilities of the corporation, dispose of all assets of the corporation in such manner, or to such organization or organizations established and operated exclusively for the purposes set forth in this third Article, which shall at the time qualify as an exempt organization or organizations under Section 501(c)(4) of the IRC or other subsection under Section 501(c) of the IRC under which the Internal Revenue Service may recognize that the corporation is exempt from federal income taxation, as the board of directors shall determine. Any remaining assets shall be disposed of pursuant to applicable law or regulation.
 - F. Notwithstanding any other provision of these Articles, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under 501(c)(4) of the IRC or other subsection under Section 501(c) of the IRC under which the Internal Revenue Service may recognize that the corporation is exempt from federal income taxation.
 - G. The corporation is a non-stock, nonprofit corporation.
- 4. **No stock.** The corporation shall not have any capital stock.
 - 5. **Conditions of membership.** The conditions of membership shall be stated in the bylaws of the corporation.
 - 6. **Duration.** The corporation shall have perpetual existence.
 - 7. **Power of board of directors.** In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized to make, alter or repeal the bylaws of the corporation, provided that any such alteration or repeal does not violate the Agreement of Transmission Facilities Owners of *Resulting Company Name*, A Delaware Non-Stock Corporation filed with the FERC on _____.
 - 8. **Meetings of members.** Meetings of members may be held within or without the State of Delaware, as the bylaws may provide. The books of the corporation may be kept (subject to any provision of law) outside the State of Delaware at such place or

places as may be designated from time to time by the board of directors or in the bylaws of the corporation.

9. **Repeal or amendment of Certificate.** The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon members herein are granted subject to this reservation.

DRAFT
For Discussion Purpose Only
November 28, 2001

BYLAWS

of

RESULTING COMPANY name

A Delaware Non-Stock Corporation

date

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ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1. *Definitions.* Unless the context otherwise specifies or requires, certain capitalized terms are used in these Bylaws and the attached appendices with the meanings set forth below or in other provisions of these Bylaws.

Agency Agreement - The agreement allowing Non-transferred Transmission Facilities to be offered by the *Resulting Company name ("XXX")* for transmission service under the Transmission Tariff. The Agency Agreement is Appendix # to the Membership Agreement.

Effective Date - The effective date of the Membership Agreement.

FERC - The Federal Energy Regulatory Commission, or any successor agency.

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

generally accepted in the region.

He, Him, or His - Includes "she," "her," or "hers."

Member - A person or business entity which is (i) an Eligible Customer, as defined in the Transmission Tariff, or (ii) an Owner, as defined herein, and which pays or paid to the *Resulting Company name* or a predecessor organization, the non-refundable membership fees as required herein. Such person or entity shall be a Member during the period covered by the applicable membership fees unless earlier terminated pursuant to the Bylaws.

Membership Agreement - The Agreement of Transmission Owners and Others to Organize *Resulting Company Name*, effective as of _____, and any amendments thereto as accepted by FERC.

Midwest ISO Agreement - The Agreement Of Transmission Facilities Owners To Organize The Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation, and any amendments thereto, and as accepted by the FERC.

MISO - Midwest Independent Transmission System Operator, Inc.

Non-owner Member - A Member that is not an Owner.

Non-transferred Transmission Facilities - The booked transmission

facilities not identified in Appendix X to the Membership Agreement that are the subject of the Agency Agreement.

Owner - A utility or other entity which owns, operates, or controls facilities for the transmission of electricity in interstate commerce (as determined by *Resulting Company name* by applying the seven-factor (7 – factor) test of FERC set forth in FERC Order No. 888, 61 Fed. Reg. 21,540, 21,620 (1996), or any successor test adopted by FERC) and which is a signatory to the Membership Agreement. A public utility holding company system shall be treated as a single owner for purposes of the Membership Agreement. Each Owner shall pay or should have paid the required membership fees and become a Member. Any termination of a utility's or entity's status as an Owner shall be determined pursuant to the Membership Agreement and these Bylaws.

Person - Any general partnership, limited partnership, corporation, limited liability company, joint venture, trust, business trust, governmental agency, cooperative, association, other entity, or individual, and the heirs, executors, administrators, legal representatives, successors, and assigns of such person, as the context may require.

SPP - Southwest Power Pool , Inc.

SPP Agreement - The Southwest Power Pool Membership Agreement, dated July 1999.

Transmission Tariff - The transmission tariff on file with FERC under

which the *Resulting Company name* will offer transmission service, or any successor tariff.

Transmission System - The transmission facilities of the Owners that are committed to the operation of *Resulting Company name* by the Membership Agreement. The facilities comprising the Transmission System are identified in Appendix # to the Membership Agreement.

User - A Transmission Customer under the Transmission Tariff or an entity that is a party to a transaction under the Transmission Tariff.

Section 1.2. Interpretation. In the event of any conflict between these Bylaws and the Membership Agreement, the Membership Agreement shall control. The descriptive headings of Articles and Sections of these Bylaws have been inserted for convenience of reference only and shall not define, modify, restrict, construe, or otherwise affect their construction or interpretation.

ARTICLE II

GENERAL PROVISIONS

Section 2.1. Organization. *Resulting Company name* is a non-stock, not-for-profit corporation, pursuant to Title 8, Chapter 1 of the laws of the State of Delaware. *Resulting Company name* shall be operated exclusively for the promotion of social welfare, in furtherance of the public policy reflected in the Order of FERC approving the Midwest ISO Agreement, FERC Order No. 888, and the Membership Agreement. No part of the net earnings, if any, of

Resulting Company name shall inure to the benefit of any *Resulting Company name* Member, Director, Officer, employee, or any other interested private person. *Resulting Company name* is authorized and empowered to pay reasonable compensation for services actually rendered and to make payments or distributions in furtherance of the purposes and objectives set forth in the Membership Agreement and the Transmission Tariff. No substantial part of the activities of *Resulting Company name* shall be carrying on propaganda or otherwise attempting to influence legislation. *Resulting Company name* shall not participate in or intervene in any political campaign on behalf of any candidate for public office. *Resulting Company name* shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(4) of the Internal Revenue Code, or successor provisions in any subsequent federal tax laws.

Section 2.2. Offices. The principal offices of *Resulting Company name* shall be located as determined by the Board of Directors. The Board may establish such offices or places of business as it shall determine to be in the best interests of *Resulting Company name*.

ARTICLE III

MEMBERS

Section 3.1. Qualifications; Membership Fees; Term. (a) Qualifications. Any Person which (i) is an Eligible Customer (as defined in the Transmission Tariff) or an Owner and (ii) pays or has paid to *Resulting Company name* or a predecessor organization the non-refundable membership fees set forth in Section 3.1(b) shall be eligible to become a Member. A

person may apply to become a Member of *Resulting Company name* by submitting an application in the form then approved by the Chief Executive Officer and making payment of the membership fees set forth in Section 3.1(b) of these Bylaws. Action upon any application for membership shall be taken at the first meeting of the Board following submission of the membership application.

(b) Membership Fees. All entities eligible for membership in *Resulting Company name* shall pay an initial membership fee of \$15,000 in order to become Members. Those Owners and users which were members of SPP pursuant to the SPP Agreement on *date* shall be Members as of such date, provided each has executed a Membership Agreement. On January 1 of each year, each Member shall pay an additional fee of \$1,000 to *Resulting Company name* to retain its membership. All such fees are nonrefundable and may be adjusted from time to time, as may be appropriate, by the Board.

(c) Term. A Person shall be a Member during the period covered by the applicable membership fees unless earlier terminated as provided in these Bylaws.

(d) Withdrawal of Members. A Member who is not an Owner may, upon submission of a written notice of withdrawal to the Chief Executive Officer, withdraw from membership in *Resulting Company name* at any time, which withdrawal shall be effective thirty (30) days after the receipt of such notice. A Member who is also an Owner may, upon submission of a written notice of withdrawal to the Chief Executive Officer, commence a process of withdrawal of its facilities from the Transmission System. The terms and conditions of such withdrawal are specified in the Membership Agreement.

Section 3.2. *Owner Status.* A Member of *Resulting Company name* that wishes also to have the status as Owner, must (i) own, operate, or control facilities used for the transmission of electricity in interstate commerce (as determined by *Resulting Company name* by applying the seven factor (7-factor) test set forth in FERC Order No. 888, 61 Fed. Reg. 21,540, 21,620 (1996), or any successor test adopted by FERC) that are physically interconnected with the facilities of an existing Owner; and (ii) be a signatory to the Membership Agreement, be bound by all of its terms, and make any and all payments or contributions required by the Membership Agreement. Upon fulfillment of these conditions, and upon completion of any physical integration of the new Owner's facilities with the Transmission System in a fashion consistent with the Chief Executive Officer's direction, the Board shall allow the new Member to become a signatory to the Membership Agreement. In general, an Owner must own, operate, or control interstate transmission facilities as detailed above; however, on a case-by-case basis, the Board may waive the requirement that such facilities be physically interconnected if allowing the Member also to become an Owner will result in significant net benefits to *Resulting Company name* and its Members.

Section 3.3. *No Rights of Members to Manage or Control.* No Member shall have any rights to manage or control the property, affairs, or business of *Resulting Company name*, or any power to control the Board in these respects.

Section 3.4. *Regular Meetings.* The Members shall hold annual meetings at a location designated by the Board on the third Monday of the same month each year, or such other

day of said month as may be designated by the Board, for the purpose of electing Directors and of exercising and discharging any other powers or duties vested in them by the Membership Agreement and these Bylaws. Members shall hold their initial meeting on July 1, 1998, or as soon thereafter as is reasonably practical.

Section 3.5. *Special Meetings.* The Board or any twenty-five percent (25%) of the Members may call special meetings of the Members at any time.

Section 3.6. *Notification.* (a) The Secretary shall provide notice to appropriate state regulatory authorities, FERC, the members of the Board Advisory Committee (established pursuant to the *Resulting Company name* Agreement), and the public by posting on the *Resulting Company name*'s Internet World-Wide Website or equivalent form of electronic posting at least seven (7) days prior to the meeting, of the time and place of all meetings of Members, whether regular or special.

(b) Notice to a Member sent by mail, electronic mail, or facsimile no later than seven (7) days prior to the date of the meeting, directed to the Member at the address, electronic mail address, or facsimile number as shown on the books of *Resulting Company name*, shall be deemed sufficient for the provisions of this provision and for all other purposes, unless written notice of change of such address, electronic address, or facsimile number has been previously given to *Resulting Company name*. In the case of special meetings, the Secretary shall also give notice to all Members of the general purpose of the meeting and the nature of the business to be considered at such meeting. Such a special meeting shall be limited to the business thus specified, unless at

least twenty-five percent (25%) of the Members consent in writing to the consideration of other matters. The Members of record eligible to participate in any meeting shall be determined as of the date notice of the meeting is provided to the Members.

Section 3.7. *Conduct of Meetings; Quorum; Voting.* At all meetings of Members, the Chairman of the Board, or such other person as may be designated by the Board, shall preside. Each Member shall be entitled to one vote. Members may vote by proxy. Twenty-five percent (25%) of the Members, or their proxies, shall constitute a quorum for the purpose of any such meeting. Except where it is otherwise provided in these Bylaws, a vote of a majority of the Members represented and voting at the meeting shall control.

ARTICLE IV

BOARD OF DIRECTORS

Section 4.1. *General Powers.* There shall be a Board of Directors of *Resulting Company name* that shall consist of eleven (11) persons all of whom shall meet the qualifications described in Section 4.2. The Board may exercise all of the powers of the non-stock corporation and do all lawful acts and things (including the adoption of such rules and regulations for the conduct of its meetings, the exercise of its powers, and the management of *Resulting Company name*) as it may deem proper and consistent with applicable law, the Membership Agreement, the Transmission Tariff, the certificate of incorporation, and these Bylaws, provided that authority for such actions is not reserved to the Members or Owners.

Section 4.2. *Qualifications.* A Director shall not be, and shall not have been at any

time within two (2) years prior to or subsequent to election to the Board, a Director, Officer, or employee of a Member, User, or an affiliate of a Member or User. At all times while serving on the Board, and for two (2) years thereafter, a Director shall have no material business relationship or other affiliation with any Member or User or an affiliate of a Member or User. A Director's participation in a pension plan of a Member or User or an affiliate thereof shall not be deemed to be a material business relationship if the Member's or User's financial performance has no material effect on such pension plan. Of the eleven (11) Directors, XXX (X) shall have expertise and experience in corporate leadership at the senior management or board of directors level, or in the professional disciplines of finance, accounting, engineering, or utility laws and regulation. Of the other XXX (X) Directors, XXX (X) shall have expertise and experience in the operation of electric transmission systems, XXX (X) shall have expertise and experience in the planning of electric transmission systems, and XXX (X) shall have expertise and experience in commercial markets and trading and associated risk management.

Section 4.3. Number; Election. (a) Initial Board. The Board shall initially consist of seven (7) of the then-current MISO Board members (excluding the President), and four (4) of the then-current SPP non-stakeholder Board members (excluding the President). Three (3) Directors shall hold office for one (1) year; four (4) Directors shall hold office for two (2) years; and the final four (4) Directors shall hold office for three (3) years; and, in each foregoing case, until their respective successors are duly elected and qualified, or until their earlier resignation or removal. At the first meeting of this Board, the Directors shall determine each of their respective terms hereunder by a drawing.

(b) Succeeding Boards. At each annual meeting of the Members, succeeding Directors shall be elected to terms of three (3) years, except for any Director elected to fill a vacancy in the remainder of the term. Each of the Members shall be entitled to cast one vote for each Director position to be filled. Before the term of a Director expires, a five-person nominating committee (“Nominating Committee”) consisting of three Board Members whose terms are not expiring appointed by the Board and two members of the Advisory Committee selected by the Advisory Committee shall select an executive search firm to provide at least two (2) candidates to the Nominating Committee for each open Director position. Members may submit the names of candidates directly to the Nominating Committee. The Nominating Committee shall then provide at least two (2) candidates to the Board for each open position. The candidates for a specific Director position shall have the same type of qualifications as the Director being replaced, as set forth in Section 4.2. At least thirty (30) days prior to the meeting of the Members at which the Directors will be elected, the Board shall distribute to the Members a slate of candidates consisting of one (1) candidate for each Director position to be filled. The Board shall also provide the Members with information on the qualifications and experience of the candidate to fill the Director seat for which each candidate is proposed. A candidate receiving a majority of the votes cast by the Members shall be elected. Should the Members fail to elect a candidate from the slate proposed by the Board, the Board shall prepare a new slate using the procedures set forth above for consideration by the Members at a meeting of the Members to be called no later than seventy-five (75) days after such election. Each Director shall serve until his successor shall have been duly elected and qualified, or until his earlier resignation or removal. Vacancies on the Board caused by a Director leaving office before the expiration of his term shall be filled by vote of the Board, which shall choose a candidate having the same type

of qualifications as his predecessor from a list prepared by the Nominating Committee in consultation with an executive search firm chosen by the Nominating Committee. A Director selected to fill such a vacancy shall serve out the term of his predecessor.

Section 4.4. *Chairman of the Board.* The Board shall select from among its members a Chairman of the Board. The Chairman shall serve in such capacity at the pleasure of the Board until the first meeting of the Board following the next succeeding annual meeting of the Members, or until his successor shall have been elected and have qualified. The Chairman of the Board shall, unless otherwise determined by the Board, preside over all meetings of the Board and Members, and shall sign, with the Secretary, certificates of membership, the issuance of which shall have been authorized by the Board. The Chairman shall perform all duties incident to the office of Chairman of the Board and such other duties as from time to time may be assigned to him by the Board.

Section 4.5. *Vice Chairman.* The Board shall select from among its members a Vice Chairman of the Board. The Vice Chairman shall serve in such capacity at the pleasure of the Board until its first meeting following the next succeeding annual meeting of the Members, or until his successor shall have been elected and have qualified. In the absence of the Chairman of the Board, or in the event of his inability or refusal to act, the Vice Chairman shall perform the duties of the Chairman of the Board, and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the Chairman of the Board. The Vice Chairman shall also perform such other duties as from time to time may be assigned to him by the Board.

Section 4.6. Resignation of Directors. Any Director may resign his office by submitting a signed notice of resignation, delivered or mailed to the Chief Executive Officer of *Resulting Company name*. Such notice of resignation shall state the effective date of resignation. If the notice does not indicate an effective date, the resignation shall take effect upon receipt of the notice by the Chief Executive Officer of *Resulting Company name*.

Section 4.7. Removal of Directors. (a) Removal by Members. The Members may remove a Director by a vote of a majority of the Members at a meeting called as provided herein. Removal proceedings may only be initiated by a petition signed by not less than twenty percent (20%) of all Members. The petition shall state the specific grounds for removal. A copy of the petition shall be provided to FERC and to each appropriate state regulatory authority. A Director sought to be removed shall be given fifteen (15) days to respond in writing to any charges set forth in the petition. The petition shall specify either that the removal vote shall be taken at the next regular meeting of the Members or at a special meeting of the Members at a designated date, place, and time.

(b) Removal by Owners for Unauthorized Acts. If the Board of *Resulting Company name* changes, or attempts to change, any of the provisions of the Membership Agreement identified in *Article Two, Section IX, Paragraph C* of the Membership Agreement without obtaining the requisite approval of the Owners as specified therein, or if the Board fails to enact these Bylaws or enacts any Bylaws contrary to the Membership Agreement, or if the Board fails or refuses to fulfill the duties owed to the Owners set forth in *Article Three, Section III, Paragraphs B and C* of the Membership Agreement, then the Board shall be deemed to have

acted without authorization, and may be removed in part or in whole by unanimous vote of the Owners' Committee (established by *Article Two, Section VI, Paragraph B* of the Membership Agreement), provided that such removal shall be subject to approval by FERC. Removal proceedings hereunder shall be initiated only by the delivery by the Owners' Committee to the Chairman of the Board of a statement specifying in detail the manner in which the Board has acted without authorization. The Board shall have sixty (60) days to respond to such a statement, after which the Owners may, by unanimous vote of the Owners' Committee, reaffirm their proposal to remove the Board if they are not satisfied with the Board's response. If the members of the Owners' Committee vote unanimously to reaffirm their proposal, they shall file such proposal with FERC and provide notice to the appropriate state regulatory authorities. Upon FERC approval of such proposal, the Board shall be removed in part or in whole and the vacant positions shall be filled in accordance with the provisions specified in these Bylaws. The new Board so selected shall have all of the powers specified herein as belonging to the Board, including the power to replace the Chief Executive Officer and other Officers, employees, or agents of *Resulting Company name* chosen by the removed Board or its predecessors. Nothing herein shall be deemed to prejudice any right any Owner may otherwise have under the Federal Power Act or other provisions of law.

Section 4.8. Meetings; Notification. Regular meetings of the Board shall be held at least quarterly, and other meetings shall be held from time to time on the call of the Chief Executive Officer, Chairman, or a majority of the Board. A Director may participate in a meeting personally, by conference call or by electronic means. Written notice of the date, location, and time of each meeting of the Board must be provided by first-class mail, electronic mail, or facsimile to

each Director no later than seven (7) calendar days prior to the date of the meeting. Participation in a meeting by a Director is a waiver of any objection that the Director may make to any failure to give adequate notice under this provision. Any action required or permitted to be taken at any meeting of the Board, or of any Board Committee, may be taken without a meeting if all Directors or Board Committee members, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or Board Committee. Consistent with the Membership Agreement, the Board shall have all procedural authority provided and options available under Title 8 of the Delaware Corporation Law, section 141, as such law may be amended or, any successor provision thereto.

Section 4.9. *Quorum; Voting.* Eight (8) Directors shall constitute a quorum of the Board. Unless otherwise required by law, the Membership Agreement or by Article XII- Transition Provisions of these Bylaws, the affirmative vote of a majority of the Directors present at a meeting is required to constitute any act or decision rendered by the Board.

Section 4.10. *Accounting.* At each quarterly meeting of the Board, or such other time as the Board directs, the Board shall require the Chief Executive Officer to submit for Board approval a full statement of the conditions of *Resulting Company name*, and all business transacted by it, and, when the statement is approved, shall cause a copy of it to be sent to each Member.

Section 4.11. *Minutes and Reports.* The Board shall cause to be kept by the Secretary, elected by it, accurate minutes of all meetings of the Board, Members, and Board Committees. Insofar as non-Members of *Resulting Company name* are concerned, these records

shall be conclusive for the Board of the facts and activities stated and recorded therein.

Section 4.12. Director Compensation and Expenses. Directors shall receive from *Resulting Company name* such compensation, regular or special, subject to the terms and conditions stated in the Membership Agreement, *Article Two, Section Three, Paragraph D, Subparagraph 1*. The independent executive search firm chosen to select candidates for election for Director positions shall set Director compensation following such election, subject to approval of the Members. If two-thirds (2/3) or more of the Members vote to reject the search firm's recommended compensation, then the recommended compensation shall be rejected and the search firm shall be requested to submit another recommendation or another search firm may be hired for such purpose. Directors, and their successors and assigns, shall have the right to reimbursement by *Resulting Company name* for all of their actual expenses reasonably incurred or accrued in the performance of their duties as Directors of *Resulting Company name*.

Section 4.13. Annual Report. The Board shall annually make a written report showing the financial results of *Resulting Company name*'s operations during the preceding fiscal year. A copy of such report shall be furnished to each Member.

Section 4.14. Board Oversight. The Board of Directors shall oversee the Chief Executive Officer's performance of the obligations of *Resulting Company name* specified in the Membership Agreement and these Bylaws. The performance of such obligations shall be carried out and executed by the Chief Executive Officer with oversight as appropriate by the Board. The Board shall establish general policies to be followed by the Chief Executive Officer and employees of

Resulting Company name in the conduct of their duties. The Board shall have the obligation to assure that the Chief Executive Officer accounts for all transactions on the Transmission System and other activities of *Resulting Company name*; submits bills for such transactions; pays the expenses of operation of *Resulting Company name*; collects monies for transmission service from customers solely as agent for Owners or their designee(s) in accordance with the Transmission Tariff; and distributes monies to the Owners or their designee(s) in accordance with the Membership Agreement, any associated agreements referred to in the Membership Agreement, and the Transmission Tariff.

Section 4.15. *Standards of Conduct.* The Directors shall comply with the Standards of Conduct set forth in *Appendix A* to the Membership Agreement, and, by direction or oversight, shall require that the Officers and employees of *Resulting Company name* also comply with such standards.

Section 4.16. *Employ Staff.* The Board shall have the power to employ staff, auditors, counsel, and other personnel as necessary to carry out the business of *Resulting Company name*, and may delegate to the Chief Executive Officer all or part of such authority to employ such staff, auditors, counsel, and other personnel.

Section 4.17. *Board Committees.* The Board may appoint such committees of the Board of Directors as are necessary and appropriate for the conduct of *Resulting Company name*'s business, provided that final responsibility for any action recommended by any such committee remains with the Board.

ARTICLE V

OFFICERS

Section 5.1. Titles. The Officers of *Resulting Company name* shall be: Chief Executive Officer; Chief Operating Officer; Chief Financial Officer; Chief Information Officer; General Counsel; one or more Vice Presidents (in the discretion of the Board); and a Secretary. A person may hold more than one officer position.

Section 5.2. Election and Term of Office. The Officers of *Resulting Company name* shall be elected from time to time by the Board. Each Officer shall hold office at the pleasure of the Board.

Section 5.3. Removal of Officers by Directors. Any Officer may be removed by the Board whenever, in the Board's judgment, the best interests of *Resulting Company name* will be served thereby.

Section 5.4. Chief Executive Officer. The duties of the Chief Executive Officer are as follows:

(a) Right of Chief Executive Officer to Manage. The right of the Chief Executive Officer to exercise functional control over the operation of the Transmission System, insofar as is necessary to carry out the rights, duties, and obligations of *Resulting Company name* as set forth in the Membership Agreement, shall be absolute, unconditional, and free from the

control and management of the Owners, who shall have only the rights specifically set forth in the Membership Agreement. The Chief Executive Officer shall have the authority to act for *Resulting Company name* before any and all applicable federal or state regulatory authorities to carry out the business of *Resulting Company name*.

(b) General Powers. The Chief Executive Officer shall possess and exercise any and all such additional powers as are reasonably implied from the powers contained in the Membership Agreement such as may be necessary or convenient in the conduct of any business or enterprise of *Resulting Company name*. The Chief Executive Officer may (i) do and perform everything that (a) he deems necessary, suitable, or proper for the accomplishment of any of the purposes, or the attainment of any one or more of the objectives, enumerated in the Membership Agreement, or (b) that shall at any time appear conducive to, or expedient for, the protection or benefit of *Resulting Company name*, and (ii) do and perform all other acts or things that are deemed necessary or incidental to the purposes set forth in the Membership Agreement.

(c) Acquire Property. The Chief Executive Officer shall have power to purchase, or otherwise acquire through leases, such property, except for transmission facilities which shall be governed by *Appendix B* to the Membership Agreement, as necessary to carry out the obligations of *Resulting Company name* as specified in *Article Three* of the Membership Agreement.

(d) Prosecute Claims. The Chief Executive Officer shall have full and exclusive power and authority to demand, sue for, claim, and receive any and all revenues and monies due *Resulting Company name*.

(e) Borrow. The Chief Executive Officer shall have the power to borrow money up to the level authorized by the Board for the purposes of *Resulting Company name* and to give the obligations of *Resulting Company name* to secure such indebtedness.

(f) Contracts. The Chief Executive Officer shall have the authority and power to make all such contracts as he may deem expedient and proper in conducting the business of *Resulting Company name*, except as may be limited by the Board.

(g) Taxes and Assessments. The Chief Executive Officer shall have the power (i) to pay all taxes or assessments of whatever kind or nature imposed upon or against *Resulting Company name* in connection with *Resulting Company name* property, or upon or against *Resulting Company name* property, or any part of such property; (ii) to do all acts and things as may be required or permitted by any present or future law for the purpose of making the activities of *Resulting Company name* exempt from taxation; and (iii) for any of the above-stated purposes, to do all such other acts and things as may be deemed by him necessary or desirable.

(h) Depository. In accordance with policies set by the Board, the Chief Executive Officer shall have the power to select a depository, and to deposit any monies or securities held by *Resulting Company name* in connection with the performance of its obligations under the Membership Agreement, with any one or more banks, trust companies, or other banking institutions, that are federally insured and deemed by the Chief Executive Officer to be responsible, such monies or securities to be subject to withdrawal on notice upon demand or in such manner as the Chief Executive Officer may determine, with no responsibility upon the Chief Executive Officer for any loss that may occur by reason of the failure of the person with whom the monies or securities had been deposited properly to account for the monies or securities so deposited.

[must insert duties for COO, CFO, CIO, and GC]

Section 5.5. Vice President. The Vice President or, if there be more than one, the Vice President designated by the Board, shall in the absence or disability of the President, exercise the powers and perform the duties of the President. Each Vice President shall exercise such other powers and perform such other duties as shall be prescribed by the Board consistent with these Bylaws. No Vice President shall be eligible to serve on the Board of *Resulting Company name*.

Section 5.6. Secretary. The Secretary shall be responsible for the following duties:

(a) Keeping the minutes of the applicable meetings in one or more books provided for that purpose;

(b) Seeing that all notices are duly provided in accordance with these Bylaws, policies of *Resulting Company name*, and any and all other documents which provide for the governance of *Resulting Company name*;

(c) Maintaining custody of the records of the business of *Resulting Company name* and the seal of *Resulting Company name*, and affixing such seal to all certificates of membership prior to the issuance thereof and to all documents, the execution of which, on behalf of *Resulting Company name*, under its seal, is duly authorized in accordance with the provisions of these Bylaws;

(d) Keeping a register of the names and post office addresses of all Members and Directors;

(e) Signing with the Chairman of the Board certificates of membership, the issuance of which shall have been authorized by the Board or Members;

(f) Keeping on file at all times at a principal office of *Resulting Company name* a complete copy of the Membership Agreement, and all amendments thereto, together with these Bylaws and any policies concerning the governance of *Resulting Company name*, and, at the expense of *Resulting Company name*, forwarding or otherwise making available copies of such information to each of the Members and to the public to the extent required by law; and generally performing all duties instant to the office of Secretary and such other duties that, from time to time, may be assigned to the Secretary by the Board.

Section 5.7. *Standards of Conduct.* The Officers, agents, and employees of *Resulting Company name* shall comply with the Standards of Conduct set forth in *Appendix A* to the Membership Agreement.

Section 5.8. *Bonds of Officers.* Any Officer, employee, or agent of *Resulting Company name* charged with the responsibility for the custody of any of its funds or property shall give bond in such sums, and with such sureties, as the Board shall determine. The Board, in its discretion, may also require any other Officer, agent, or employee of *Resulting Company name* to give bond in such amount, with such surety, as it shall determine. All premiums of the aforesaid bonds shall be paid by *Resulting Company name*.

Section 5.9. Compensation. Compensation of the Officers, agents, and employees of *Resulting Company name* shall be established by the Board or pursuant to the policies approved by the Board.

ARTICLE VI
EXTERNAL COMMITTEES

Section 6.1. Advisory Committee. *[as has been discussed, the Advisory Comm is to be revised so that a rep from current SPP membership is in each sector; as terms expire, the sectors will proceed as stated here in electing representatives from within the Resulting Company footprint]* (a) At all times there shall exist an Advisory Committee to the Board consisting of a total of fourteen (14) representatives from the following stakeholder groups chosen as follows: (i) two (2) representatives of Owners; (ii) two (2) representatives of municipal and cooperative electric utilities and transmission-dependent utilities; (iii) two (2) representatives of IPPs and EWGs; (iv) two (2) representatives of power marketers and brokers; (v) two (2) representatives of eligible end-use customers; (vi) two (2) representatives of state regulatory authorities; (vii) one (1) representative of public consumer groups; and (viii) one (1) representative of environmental and other stakeholder groups. The Board may revise or expand the stakeholder groups as circumstances and industry structures change. The Board shall be responsible for facilitating meetings of the Advisory Committee, which shall be held at least quarterly. At such quarterly meetings, the Chief Executive Officer and at least two (2) other members of the Board shall meet with the Advisory Committee. Upon request of the Advisory Committee, Board members and the Chief Executive Officer shall use their best efforts to attend other Advisory Committee meetings.

The Advisory Committee shall be a forum for its members to be apprised of *Resulting Company name*'s activities and to provide information and advice to the Board on policy matters of concern to the Advisory Committee, or its constituent stakeholder groups, but neither the Advisory Committee nor any of its constituent groups shall exercise control over the Board or *Resulting Company name*. Nothing in the Membership Agreement shall prohibit a corporate or other entity from participating in more than one stakeholder group provided it meets the approved eligibility criteria. The reports of the Advisory Committee and any minority reports shall be presented by the Chief Executive Officer to the Board. The Board shall determine how and when it shall consider and respond to such reports. The Chief Executive Officer shall inform the Advisory Committee of any Board determination(s) with respect to such report.

(b) Members of the Advisory Committee shall be selected in the following manner:

(i) The Owners' representatives on the Advisory Committee shall be selected in accordance with Section 6.2 of these Bylaws.

(ii) The representatives of municipal and cooperative electric utilities and other transmission-dependent utilities, IPPs and EWGs, power marketers and brokers, and eligible end-use customers on the Advisory Committee shall be chosen by the Members belonging to such groups. Such Member groups shall propose to the Board their own methods of eligibility and voting. Approval by the Board of such procedures shall not be unreasonably withheld.

(iii) The representatives of state regulatory authorities on the Advisory Committee shall be chosen by the state public service commissions which regulate the retail electric or distribution rates of the Owners who are signatories to the Membership Agreement.

(iv) The representatives of public consumer groups and environmental and other stakeholder groups on the Advisory Committee shall be chosen by recognized consumer, environmental, and other stakeholder organizations having an interest in the activities of *Resulting Company name*. The Board shall certify the organizations eligible to participate in the selection of such representatives to the Advisory Committee. Such certification shall not unreasonably be withheld. The groups so certified shall propose to the Board their own methods of eligibility and voting. Approval of such procedures shall not unreasonably be withheld.

(v) Meetings of the constituent stakeholder groups represented on the Advisory Committee need not be open to the public.

(c) In order to ensure appropriate representation on the Advisory Committee, the Board may change the size and composition of the Advisory Committee at three-year (3-year) intervals.

Section 6.2. Owners' Committee. An Owners' Committee shall exist throughout the period of the Membership Agreement. The Owners' Committee shall consist of one (1) person representing each of the Owners who are signatories to the Membership Agreement. The Owners' Committee shall meet at its discretion to exercise the authority granted to the Owners as a group under these Bylaws, including voting upon the matters set forth in Sections 4.7(b) and 8.2(b) of these Bylaws, and under the Membership Agreement. The Owners' Committee shall select two (2) representatives to serve on the Advisory Committee established pursuant to Section 6.1 of these Bylaws.

ARTICLE VII
OPEN MEETINGS

Section 7.1. *Open Meetings.* Except as provided herein, all meetings of the Board, all meetings of Board Committees and working groups, all meetings of the Advisory Committee and all Members' meetings shall be open to the public. Timely notice of such meetings and copies of all materials to be addressed at such meetings shall be provided to the members of the Advisory Committee, appropriate state regulatory authorities, and FERC and posted on the *Resulting Company name's* Internet World Wide Website or equivalent form of electronic posting. The procedures adopted by the Board for the conduct of such meetings shall allow interested members of the public, including those stakeholders represented on the Advisory Committee, to provide oral and written comments at such meetings concerning any matter that may come before the Board, Board Committees and working groups, Advisory Committee, or Members, whichever is applicable, during the open portion of such meetings.

Section 7.2. *Minutes.* The meeting minutes of all meetings of the Board, Board Committees and working groups, Advisory Committee, and Members shall be made available to the public and furnished to appropriate state regulatory authorities and FERC, upon request; provided, however, that materials or information which is privileged or confidential pursuant to Section 7.3 of these Bylaws may be redacted from such minutes. Copies of executed or final documents, such as contracts, leases, and agreements, not otherwise required to be treated as confidential shall be made available for review. In the event the basis for information being treated as confidential ceases to exist, said information shall thereafter be available for review.

Section 7.3. *Executive Sessions to Preserve Confidentiality.* Executive sessions (closed to the public) shall be held as necessary to safeguard the confidentiality of (a) personnel-related information; (b) information subject to the attorney-client privilege or to confidential treatment under the attorney-work product doctrine or concerning pending or threatened litigation; (c) information that is confidential under *Appendix A* to the Membership Agreement; (d) consideration of assumption of liabilities or business combinations, the purchase or lease of real property or assets; (e) except as may be required by law, consideration of the sale or purchase of securities, investments, or investment contracts; (f) strategy and negotiation sessions in connection with a collective bargaining agreement; (g) discussion of emergency and security procedures; (h) consideration of matters classified as confidential by federal or state law; (i) matters to protect trade secrets, proprietary information, specifications for competitive bidding, or to discuss a specific proposal if open discussion would jeopardize the cost or siting or give an unfair competitive or bargaining advantage to any person or entity; and (j) discussion of proceedings by the Alternate Dispute Resolution Committee established under *Appendix D* to the Membership Agreement.

ARTICLE VIII

DUE DILIGENCE, LIABILITY, AND INDEMNIFICATION

Section 8.1. *Due Diligence Duties.* It shall be the duty of Directors, Officers, employees, agents, and other representatives of *Resulting Company name* (a) to faithfully and diligently administer *Resulting Company name* as would reasonable and prudent persons acting in their own behalf; (b) to keep correct and accurate records of all business transacted; (c) to exercise

prudence and economy in the business of *Resulting Company name*, including the minimization of tax liability if *Resulting Company name* is not tax exempt; (d) to act in good faith, and only for the best interests of *Resulting Company name*; (e) to annually render a full and correct account of *Resulting Company name* business; and (f) at the termination of *Resulting Company name*, to render and to deliver all the properties and funds of *Resulting Company name* in accordance with the Membership Agreement and applicable law.

Section 8.2. *Limitations on Liability.* No Director, Officer, agent, employee, or other representative of *Resulting Company name*, and no corporation or other business organization that employs a Director of *Resulting Company name*, or any Director, Officer, agent, or employee of such corporation or other business organization, shall be personally liable to *Resulting Company name*, any Member, or any User for any act or omission on the part of any such Director, Officer, agent, employee, or other representative of *Resulting Company name*, which was performed or omitted in good faith in his official capacity as a Director, Officer, agent, employee, or other representative of *Resulting Company name* pursuant to the operation of the Membership Agreement, or in any other capacity he may hold, at the request of *Resulting Company name*, as its representative in any other organization. However, this release of liability shall not operate to release such a Director, Officer, agent, employee, or other representative of *Resulting Company name* from any personal liability resulting from willful acts or omissions knowingly or intentionally committed or omitted by him in breach of the Membership Agreement, for improper personal benefit, or in bad faith. Directors, Officers, agents, employees, or other representatives of *Resulting Company name* also shall not be personally liable for any actions or omissions of others, including Owners, whose actions or omissions may relate to *Resulting Company name*, or any property or

property rights forming, or intended or believed to form, part of *Resulting Company name*'s property, or for any defect in the title to, or liens or encumbrances on, any such property or property rights.

Section 8.3. Indemnification. *Resulting Company name* shall indemnify each Director, Officer, agent, employee, or other representative strictly in accordance with the terms and conditions of the Indemnification provisions of the Membership Agreement, *Article II, Section VIII*.

ARTICLE IX AMENDMENTS

Section 9.1. Amendment. These Bylaws may be amended by the Board from time to time, subject to the receipt of all necessary federal and state regulatory approvals, and provided that no amendment is contrary to the Membership Agreement.

ARTICLE X MISCELLANEOUS MATTERS

Section 10.1. Dispute Resolution. *Resulting Company name* shall resolve disputes between and among *Resulting Company name* and the Owners, individually or collectively, and Users other than the Owners, in accordance with the procedures set forth in *Appendix D* to the Membership Agreement. This provision does not apply to disputes covered under the

Transmission Tariff.

Section 10.2. *Inspection and Auditing Procedures.* *Resulting Company name* shall grant each Member, its employees or agents, external auditors, and federal and state regulatory authorities having jurisdiction over *Resulting Company name* or an Owner, such access to the *Resulting Company name*'s books and records as is necessary to verify compliance by *Resulting Company name* with the Membership Agreement and to audit and verify transactions under the Membership Agreement. Such access shall be at reasonable times and under reasonable conditions. *Resulting Company name* shall also comply with the reporting requirements of federal and state regulatory authorities having jurisdiction over *Resulting Company name* with respect to the business aspects of its business operations, including, but not limited to, the State of Delaware. Contacts between Officers, employees, and agents of any Owner and those of *Resulting Company name* pursuant to this Section 10.2 shall be strictly limited to the purposes of this Section 10.2 and shall comply with the Standards of Conduct set forth in *Appendix A* to the Membership Agreement.

ARTICLE XI

WITHDRAWAL OR TERMINATION OF MEMBERS

Section 11.1. *Withdrawal Notice.* A Member who is not an Owner may, upon submission of a written notice of withdrawal to the Chief Executive Officer, withdraw from membership in *Resulting Company name* at any time, which withdrawal shall be effective thirty (30) days after the receipt of such notice by the Chief Executive Officer.

A Member who is also an Owner may withdraw under the procedures and rights

specified in the Midwest ISO Agreement and shall be subject to the regulatory approvals referred to in that Agreement or as provided by applicable law. The effect of such withdrawal shall be as stated in that Agreement.

ARTICLE XII

TRANSITION PROVISIONS

Section 12.1. *Supermajority Vote Requirements.* For a period of six (6) months beginning on the Effective Date of MISO's acquisition of assets and liabilities of SPP pursuant to the Purchase and Assumption Agreement dated _____ (the "Effective Date"), any vote of the Board with respect to the matters set forth below shall require the affirmative votes of not fewer than two-thirds (2/3) of the Directors in attendance at a meeting at which a quorum is present:

[List]

Section 12.2. *Advisory Committee Composition.* At the Effective Date, at least one representative from each of the stakeholder groups entitled to representation on the Advisory Committee established by Section 6.1 shall be a Member who is a former member of SPP. The requirements of this Section 12.2 shall apply only to the composition of the Advisory Committee as it exists immediately following the Effective Date.

SERVICES AGREEMENT

This Agreement is entered into this XX day of, 200X, between *Resulting Company name* (“XXX”), a Delaware non-profit corporation, and Southwest Power Pool, Inc. (“SPP”), an Arkansas non-profit corporation, which may be individually referred to herein as “Party” or collectively as “the Parties”.

WHEREAS SPP is an independent Regional Reliability Council for interconnected electric systems in the Southwest part of the United States; and

WHEREAS, SPP wishes to contract for performance of certain functions as described in this Agreement related to its role as a Regional Reliability Council; and

WHEREAS, *Resulting Company name* possesses the necessary competency and experience to perform the functions in question and is willing to perform such functions under the terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

Section 1 –Scope of Services.

1.1 *Resulting Company name* shall perform the following functions on behalf of SPP, associated with administration of: *list functions*

Section 2 – Independence.

2.1 All functions shall be performed by employees of *Resulting Company name*. No such employees shall be employed by, or have a financial interest in any Market Participant as defined in 18 C.F.R. §35.34 (a) (2). Any employee owning securities in any affiliate of a Market Participant shall divest such securities within six months of his or her employment by *Resulting Company name*. Nothing in this section shall be interpreted to preclude any such employee from indirectly owning securities issued by any affiliate of a Market Participant through a mutual fund or similar arrangement (other than a fund or arrangement specifically targeted toward the electric industry or the electric utility industry or any segment thereof) under which the employee does not control the purchase or sale of such securities. Participation in a pension plan of a Market Participant shall not be deemed to be a direct financial interest if the plan is a defined-benefit plan that does not involve ownership of the securities.

2.2 All employees of *Resulting Company name* performing functions on behalf of SPP under this Agreement shall be treated, for purposes of the FERC’s Standards of Conduct set forth in 18 C.F.R. § 37.4, as the equivalent of reliability employees of SPP,

and all restrictions relating to information sharing and other relationships shall apply to such employees. Such employees shall abide by the SPP Standards of Conduct.

Section 3 – Compensation, Billing and Payment.

3.1 SPP shall reimburse *Resulting Company name* for all reasonable and necessary costs incurred in performing functions on its behalf pursuant to this Agreement. Reimbursable expenses shall include employee salaries and benefits, office space, supplies and equipment, computer hardware and software lease costs and other information technology costs, reasonable travel and other business expenses, legal, accounting, and other necessary corporate services. Such expenses shall be directly assigned to *Resulting Company name*'s performance of its responsibilities under this agreement when possible, and shall be based upon time billing or other reasonable allocation methods when such direct assignment is not possible.

3.2 *Resulting Company name* shall render to SPP monthly statements by regular mail, facsimile, electronic mail or other acceptable means. Such statement shall set forth any reimbursable costs incurred by *Resulting Company name* during the month in question. SPP shall make payment of the amount shown to be payable by wire transfer to an account specified by *Resulting Company name* not later than the twentieth (20th) day after receipt of the statement, unless such day is not a business day, in which case payment shall be made on the next business day. All such payments shall be deemed to be made when said wire transfer is received by *Resulting Company name*. Overdue payments shall accrue interest daily at the then current prime interest rate (the base corporate loan interest rate) published in the Money and Investing Section of the Wall Street Journal, or, if no longer published, in any mutually agreeable publication, plus 2% per annum, from the due date of such unpaid amount until the date paid.

3.3 In case of a default by SPP, *Resulting Company name* may terminate this Agreement without notice. In the event of a billing dispute between the Parties, *Resulting Company name* will continue to perform its responsibilities under this Agreement so long as (i) SPP continues to make all payments not in dispute, and (ii) SPP pays into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute.

3.4 Upon request by SPP, *Resulting Company name* shall allow SPP and its representatives access to only that portion of its books and records necessary, to verify transactions and billings under this Agreement, during normal business hours at its offices in XXX. *Resulting Company name*'s books and records related to this agreement shall be subject to and part of its annual audit performed under National Accounting Standards with results made available to SPP. *Resulting Company name* shall maintain such books and records for one (1) year after termination or expiration of this Agreement, or longer if necessary to resolve a pending dispute.

Section 4 - Term and Termination.

4.1 The initial term of this Agreement shall begin on the Closing Date of the SPP- Midwest ISO (MISO) consolidation and shall end on *date*. The Agreement shall automatically renew for one (1) additional year on each *date* thereafter unless a Party provides three calendar months' written notice to the other. *Resulting Company name* shall be compensated for reasonable costs incurred prior to such termination.

4.2 *Resulting Company name* shall begin performing the functions required by Section 1.1 at 1200 hours on the date upon which the SPP-MISO consolidation is consummated ("Date of Transfer"), and shall cease performing such functions at 1200 hours on the date the Agreement expires or is terminated, except as otherwise agreed.

4.3 It is the intent of the Parties to transfer the functions from SPP to *Resulting Company name* without any interruption in the administration of SPP's obligations as a Regional Reliability Council. To this end, the Parties shall, prior to the Date of Transfer, cooperate to establish the necessary practices, routines, installation of equipment, establishment of communication links, and all other activities necessary to allow *Resulting Company name* to begin performance of the required functions without interruption.

Section 5 – Standard of Performance.

5.1 *Resulting Company name* shall perform the functions specified in this Agreement in accordance with Good Utility Practice and shall conform to applicable reliability criteria, policies, standards, rules, regulations and other requirements of SPP, the North America Electric Reliability Council (NERC) or its successor organization, and all applicable requirements of federal and state regulatory authorities.

Section 6 – Data, Systems and Personnel.

6.1 SPP shall supply to *Resulting Company name*, both initially and throughout the term of this Agreement, all data that *Resulting Company name* deems necessary to perform the functions required to be performed under this Agreement. The Parties shall agree upon the necessary data and the format and manner in which it shall be provided prior to the Date of Transfer.

6.2 SPP shall reimburse *Resulting Company name* in accordance with Section 3 for computer hardware and software and any incremental licensing costs necessary to allow *Resulting Company name* to perform its responsibilities under this Agreement. Such arrangements may involve hardware and/or software leases and/or maintenance agreements with SPP, as determined by *Resulting Company name*.

Section 7 – Waiver of Liability and Indemnification.

7.1 Neither *Resulting Company name*, its directors, officers, agents nor employees shall be liable to SPP for damages arising out of or related to performance of

Resulting Company name's obligations under this Agreement; provided, however, that this section shall not apply to actions which are unlawful, undertaken in bad faith, or are the direct result of gross negligence or willful misconduct on the part of *Resulting Company name* or its employees.

7.2 SPP hereby agrees to indemnify and hold harmless *Resulting Company name*, its directors, officers, agents and employees against and from any and all claims, demands, causes of action, losses and liabilities (including any cost and expense of litigation and reasonable attorneys fees incurred by *Resulting Company name* in defending any action, suit or proceeding, provided that *Resulting Company name* affords SPP a reasonable opportunity in such action, suit or proceeding to conduct *Resulting Company name*'s defense and to approve any settlement agreements) for or on account of damages arising out of or related to performance by *Resulting Company name* of its obligations under this Agreement, except to the extent that such claims, demands, causes of action, losses and liabilities are attributable to actions of *Resulting Company name* or its directors, officers, agents or employees which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct.

Section 8 - Dispute Resolution.

8.1 Any dispute under this Agreement shall be resolved in accordance with the dispute resolution procedures set forth in the SPP Bylaws. For purposes of such disputes, *Resulting Company name* shall be regarded as a "consenting non-member".

Section 9 - Data Management.

9.1 For purposes of this Section 9:

a) "Data" means all information, text, drawings, diagrams, images or sounds which are embodied in any electronic or tangible medium and which are supplied or are accessible to *Resulting Company name* under this Agreement.

b) "Processes" means software, base data models and operating procedures for software or base data models.

9.2 *Resulting Company name* acknowledges that SPP's Data and Processes are the property of SPP. SPP hereby reserves all related intellectual property rights which may exist. *Resulting Company name* shall not delete or remove any copyright notices contained within or relating to SPP's Data or Processes.

9.3 Having due regard for the nature of their respective obligations under this Agreement:

9.3.1 *Resulting Company name* shall use its best efforts to preserve the integrity of SPP's Data and Processes, to prevent any corruption or loss of SPP's Data; and

9.3.2 SPP shall use its best efforts to preserve the integrity of its Data and Processes by, as a minimum, continuing to employ its own established internal procedures in relation to the same.

9.4 Without limiting the foregoing obligations of either Party, SPP shall reasonably assist *Resulting Company name* in establishing measures to preserve the integrity and prevent any corruption or loss of SPP's Data, and shall reasonably assist *Resulting Company name* in the recovery of any corrupted or lost data.

9.5 *Resulting Company name* shall retain and preserve SPP's Data until such reasonable time following the termination or expiration of this Agreement that it is transferred, or ordered destroyed or returned as directed by SPP at its expense.

Section 10 - Insurance.

10.1 *Resulting Company name* shall furnish and require its sub-contractors to furnish certain insurance coverage. Insurance shall be placed with insurance carriers acceptable to SPP, such acceptance not to be unreasonably withheld. *Resulting Company name* shall maintain and cause its sub-contractors to maintain the following:

10.1.1 coverage for the legal liability of *Resulting Company name* or its sub-contractors under the workers' compensation and occupational disease law of the state in which the services are performed according to the following:

10.1.1.1 in the states of Indiana and Arkansas, *Resulting Company name* or its sub-contractors shall be contributors to the state workers' compensation fund and shall furnish a certificate to that effect; and

10.1.1.2 in states other than Indiana and Arkansas, SPP or its sub-contractors shall maintain an insurance policy for workers' compensation from an insurance carrier approved for contracting workers' compensation business in the state in which the services are to be performed; and

10.1.1.3 if *Resulting Company name* or its sub-contractor is a legally permitted and qualified self-insurer in the state in which the Services are to be performed, it may furnish proof that it is such a self-insurer in lieu of submitting proof of insurance.

10.1.2 commercial general liability insurance with limits of not less than \$1,000,000 (one million dollars) each occurrence and aggregate;

10.1.3 professional liability insurance with a limit of not less than \$30,000,000 (thirty million dollars) each occurrence and aggregate, providing coverage for claims arising out of the performance of professional services under this Agreement and resulting from any error, omission, or negligent act for which *Resulting Company name* is held liable. *Resulting Company name* shall maintain this insurance for a minimum period of 5 (five) years after the completion of the Agreement; and

10.1.4 property insurance with a limit of liability necessary to restore and replace all physical and intellectual assets necessary to the Services under this Agreement including SPP Data. This insurance shall include, but not be limited to the following coverages:

10.1.4.1 mechanical breakdown and artificially generated electrical current;

10.1.4.2 changes in temperature and humidity;

10.1.4.3 computer viruses;

10.1.4.4 off-premises services;

10.1.4.5 transportation of goods;

10.1.4.6 loss of project (to protect the physical damage to R&D property, as well as, additional costs to recreate, restore and reproduce the damaged property);

10.1.4.7 delayed introduction of product (to protect loss from delays in bringing the Services to SPP); and

10.1.4.8 extended period of indemnity (to extend business income period of indemnity for whatever reasonable time needed to restore/resume operations after a loss.).

10.2 *Resulting Company name* shall submit two copies of certificates of insurance for the insurances required in Sections 10.1.1 through 10.1.4. Such certificates shall state that the insurance carrier has issued the policies providing for the insurance specified herein, that such policies are in force, and that the insurance carrier will give SPP 30 (thirty) calendar days prior written notice of any material change in or cancellation of such policies. If such insurance policies are subject to any exceptions to the terms specified herein, such exceptions must be explained in full in such certificates. SPP may, at its discretion, require *Resulting Company name* to obtain insurance policies that are not subject to any exceptions.

10.3 Insurance policies written on a “claims-made” basis shall be maintained by *Resulting Company name* or its sub-contractors for a minimum of 5 (five) years after completion of the Services under this Agreement.

10.4 *Resulting Company name* and its sub-contractors shall obtain waivers of subrogation on all their insurance whether required by this Agreement or in excess of the Agreement requirements; such waivers shall be for the benefit of SPP and its affiliated companies. Notwithstanding the foregoing, SPP shall not require waiver of subrogation

on commercial general liability, professional liability and workers compensation insurance. Furthermore, SPP shall not require waiver of subrogation on *Resulting Company name* and its sub-contractors business auto policy provided that it follows the industry standard definition of “insured” which includes SPP’s usage with permission. *Resulting Company name* and its sub-contractors shall obtain a waiver of subrogation on such policies as property, inland marine and crime.

Section 11 - Confidentiality.

11.1 Both Parties hereby agree that:

11.1.1 “Confidential Information” means all information designated as such by either Party in writing;

11.1.2 any person employed or engaged by the Parties shall only use Confidential Information for the purposes of this Agreement;

11.1.2.1 any person employed or engaged by either Party shall not disclose any Confidential Information to any third party without the prior written consent of both Parties.

11.1.3 both Parties shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed or used other than for the purposes of this Agreement by their employees, servants, agents or sub-contractors.

11.2 The provisions of Section 11.1 shall not apply to any information which:

11.2.1 is or becomes public knowledge other than by breach of this Agreement;

11.2.2 is in the possession of the receiving Party without restriction in relation to disclosure;

11.2.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

11.2.4 is independently developed without access to the Confidential Information, provided that such independent development can be evidenced; or

11.2.5 is required to be disclosed by law, regulatory authority or stock exchange.

11.3 SPP’s Data shall be regarded as Confidential Information and *Resulting Company name*’s rights with respect to the use, sale, reproduction, modification and

distribution of the same shall be limited to the extent necessary so as to enable it to fulfill its obligations under this Agreement.

11.4 Nothing in this Section 11 shall prevent either Party from using data processing techniques, ideas and know-how gained during the performance of this Agreement in the furtherance of its normal business, to the extent that this does not relate to a disclosure of SPP's Data, any data generated from SPP's Data, a disclosure of any Confidential Information, or an infringement by either Party of any intellectual property right.

Section 12 – Force Majeure.

12.1 For purposes of this Agreement the expression "Force Majeure" shall mean any cause affecting the performance by a Party of its obligations arising from acts, events, omissions, or happening which are beyond its reasonable control including but not limited to governmental regulations, fire, flood, any natural disaster or a labor dispute that results in work stoppage.

12.2 Neither Party shall be liable to the other for any loss of any kind whatsoever including but not limited to any damages whether directly or indirectly caused to or incurred by the other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. If *Resulting Company name* fails to perform or is delayed in performing due to an act of Force Majeure, SPP shall be entitled to a refund of any advance payments made up to the date such Force Majeure event occurs less any amounts earned and due, and shall not be required to make further payments until such time as *Resulting Company name* resumes its full performance. Notwithstanding the foregoing, each Party shall use all reasonable endeavors to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure events. If *Resulting Company name* fails to perform or is delayed in performing its obligations due to Force Majeure, SPP may during the period of Force Majeure, utilize a third party to perform *Resulting Company name's* obligations. *Resulting Company name* shall use reasonable efforts to cooperate with SPP in effecting a transition to such alternative services.

12.3 If either of the Parties shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part, it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.

12.4 It is expressly agreed that any failure or delay by *Resulting Company name* to perform its obligations under this Agreement which results from any failure or delay in the performance of its obligations by any person, firm or company with which it shall have entered into any such contract, supply arrangement or sub-contract or otherwise, shall be regarded as a failure or delay due to Force Majeure only in the event that (a) such person, firm or company shall itself be prevented from or delayed in complying with its

obligations under such contract, supply arrangement or sub-contract or otherwise as a result of circumstances of Force Majeure (b) the contract, supply arrangement or subcontract is essential to *Resulting Company name's* performance, and (c) *Resulting Company name* has exercised its best efforts to find substituted goods or services on terms generally equivalent to those agreed under such contract, supply arrangement or sub-contract.

12.5 If the event of Force Majeure prevents either Party from performing all or a substantial part of its obligations for a consecutive period of 90 (ninety) calendar days, the other Party may terminate this Agreement upon written notice, provided always that *Resulting Company name* shall be reimbursed for all direct costs incurred under this Agreement up to the effective date of such termination, provided always that such costs take account of:

12.5.1 any recoveries made by *Resulting Company name* pursuant to its insurance policies;

12.5.2 all charges paid by SPP hereunder.

Section 13 – Amendments to Agreement.

13.1 This Agreement shall not be varied or amended unless such variation or amendment is agreed in writing by duly authorized representatives of the Parties.

Section 14 - Notices.

14.1 Notices. Any notice, demand or request required or authorized by this Agreement to be given by one Party to the other shall be in writing. It shall be personally delivered, transmitted by telecopy or facsimile equipment (with receipt verbally and electronically confirmed), sent by overnight courier, or sent via registered mail, return receipt requested, to the other Party at the address designated in this Article 14. Any such notice, demand or request so delivered or mailed shall be deemed received when so delivered.

14.2 Addresses of the Parties. Notices and other communications shall be addressed to:

SPP
name
Southwest Power Pool, Inc.
415 North McKinley Street
#900 Plaza West
Little Rock, AR 72205-3020

Resulting Company name
Name
Resulting Company name

Address
Address

Or such other address(es) as may be provided in writing by a Party.

Section 15 - Miscellaneous Provisions.

15.1 Governing Law. This Agreement shall be interpreted, construed, and governed by the laws of the State of XXXX, except to the extent preempted by the law and/or unless a court with jurisdiction rules otherwise, provided, however, that all matters relating to real property or any interest in realty shall be governed by the laws of the State wherein such real property or interest in realty is physically located.

15.2 Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon the Parties, their respective successors and assigns permitted hereunder, but shall not be assignable by a Party, by operation of law or otherwise, without the approval of the other Party which approval shall not be unreasonably withheld.

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

15.4 Severability. Each provision of this Agreement shall be considered severable, and if for any reason any provision of this Agreement, or the application thereof to any person, entity, or circumstance, is determined by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, then the remaining provisions of this Agreement shall continue in full force and effect and shall in no way be affected, impaired, or invalidated, and such invalid, void, or unenforceable provision shall be replaced with a suitable and equitable provision in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid, void, or unenforceable provision.

15.5 Renegotiation. If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, then the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification, or condition. If after sixty (60) days such negotiations are unsuccessful, then either Party may terminate this Agreement pursuant to Section 4.

15.6. Representations and Warranties. Each Party represents and warrants to other signatories that as of the date it executes this Agreement:

15.6.1 It is duly organized, validly existing, and in good standing under the laws of the jurisdiction where organized;

15.6.2 Subject to any necessary approvals by federal or state regulatory authorities, the execution and delivery by each Party, and the performance of its obligations hereunder have been duly and validly authorized by all requisite action on the part of the signatories. This Agreement has been duly executed and delivered by the Parties, and, subject to the conditions set forth in this Agreement, constitutes the legal, valid, and binding obligation on the part of each Party, enforceable against it in accordance with its terms except insofar as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other similar laws affecting the enforcement of creditor's rights generally, and by general principles of equity regardless of whether such principles are considered in a proceeding at law or in equity.

15.6.3 There are no actions at law, suits in equity, proceedings, or claims pending or, to the knowledge of each Party, threatened against such Party before or by any federal, state, foreign or local court, tribunal, or governmental agency or authority that might materially delay, prevent, or hinder the performance by such entity of its obligations hereunder.

15.7 Further Assurances. Each Party agrees that it shall hereafter execute and deliver such further instruments, provide all information, and take or forbear such further acts and things as may be reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the provisions of this Agreement.

15.8 Entire Agreement. This Agreement, including applicable appendices and their duly approved replacements, constitute the entire agreement between the Parties with respect to the subject matter of this Agreement, and no previous oral or written representations, agreements, or understandings made by any officers, agent, or employee of any Party shall be binding on any such Party.

15.9 Good Faith Efforts. Each Party agrees that it shall in good faith take all reasonable actions necessary to permit it and other signatories to fulfill their obligations under this Agreement. Where the consent, agreement, or approval of any Party must be obtained hereunder, such consent, agreement, or approval shall not be unreasonably withheld, conditioned, or delayed. Where any Party is required or permitted to act, or omit to act, based on its opinion or judgment, such opinion or judgment shall not be unreasonably exercised. To the extent that the jurisdiction of any federal or state regulatory authority applies to any part of this Agreement and/or the transactions or actions covered by this Agreement, each Party shall cooperate with all other signatories

to secure any necessary or desirable approval or acceptance of such regulatory authorities of such part of this Agreement and/or such transactions or actions.

15.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument, binding upon the Parties, notwithstanding that the Parties may not have executed the same counterpart.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves.

RESULTING COMPANY NAME

Name

Title

Signature

SOUTHWEST POWER POOL, INC.

Name

Title

Signature

CONDITIONAL WITHDRAWAL AGREEMENT

This **CONDITIONAL WITHDRAWAL AGREEMENT** (“Agreement”) is made as of _____, 2001, by and among **SOUTHWEST POWER POOL, INC.** (“SPP”) and the undersigned parties (each, a “Member” and, collectively, the “Members”), each of whom is a signatory to that certain Southwest Power Pool Membership Agreement dated July 1999 (the “SPP Membership Agreement”).

RECITALS

A. SPP and Midwest Independent Transmission System Operator, Inc. (“MISO”) have entered into a Purchase and Assumption Agreement dated as of _____, 200__ (the “Purchase Agreement”), under which MISO has agreed to purchase substantially all of the tangible and intangible assets of SPP.

B. It is the intention of SPP and MISO that, following the closing of the transactions contemplated by the Purchase Agreement, MISO (as restructured in accordance with the terms of the Purchase Agreement) will make available to such of the Members who elect to become members of MISO substantially the same services currently provided them under the SPP Membership Agreement, excluding only SPP-related reliability council functions that will remain with SPP.

C. The closing of the transactions contemplated by the Purchase Agreement is subject to the satisfaction of certain conditions, including the conditions that all Members agree to withdraw from the SPP Membership Agreement and, further, that Members controlling a specified minimum number of billing units (determined under Schedule 1 of the SPP Open Access Transmission Tariff) have taken the steps necessary to become members of MISO.

D. The Members and SPP intend that, notwithstanding the withdrawal of all Members from the SPP Membership Agreement, certain obligations between them that arise under the SPP Membership Agreement shall be assigned to and assumed by MISO upon the closing of the transactions contemplated by the Purchase Agreement.

E. The Members desire, through this Agreement, to agree to the withdrawal of all Members from the SPP Membership Agreement upon satisfaction of the conditions set forth herein, and to permit the assignment to and assumption by MISO of certain obligations arising under the SPP Membership Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Members hereby agree as follows:

1. Conditional Withdrawal of Members. Upon the terms and subject to the conditions set forth herein, and as of the Effective Time (as defined in Section

3 below), each Member shall be deemed to have withdrawn from the SPP Membership Agreement and shall thereafter have the rights and obligations of a withdrawing member as provided in the SPP Membership Agreement in Section 4.2 and elsewhere. SPP and each Member hereby consent to withdrawals effected under this Agreement notwithstanding the fact that such withdrawals fail to comply with all the terms set forth in the SPP Membership Agreement pertaining to Member withdrawals.

2. **Consent to Assignment and Assumption.** At the Effective Time, all rights and obligations of SPP under the SPP Membership Agreement (which, in light of the withdrawal of all Members, shall consist only of rights and obligations in respect of withdrawing members) shall be assigned to and assumed by MISO (collectively, the “Withdrawn Member Obligations”), including, but not limited to, the following:

(a) all obligations of the Members to pay, and the corresponding rights of SPP to collect from Members, any assessments under the SPP Membership Agreement that are accrued and unpaid at the Effective Time;

(b) all contingent liabilities of the Members to SPP for their respective pro rata shares of all debts and obligations of SPP that are assumed by MISO at the Effective Time; and

(c) all obligations of SPP to reimburse Members for assessments upon the occurrence of the events specified in the SPP Membership Agreement.

All of the Members (regardless of whether they become members of MISO) hereby (i) consent to the assignment and assumption of the Withdrawn Member Obligations and (ii) agree that the Withdrawn Member Obligations shall be valid, binding and enforceable among the Members and MISO, and that MISO, as assignee, shall be entitled to enforce any of the Withdrawn Member Obligations. The Members further agree that insofar as practicable, the intent of the Members and SPP as expressed in the SPP Membership Agreement shall be followed in determining the nature, amount and timing of the Withdrawn Member Obligations.

3. **Effectiveness.** Section 1 of this Agreement shall become effective upon the Closing described in the Purchase Agreement, and the term “Effective Time” as used in this Agreement shall mean the effective time of the Closing under the Purchase Agreement. Notwithstanding anything to the contrary herein, Section 1 of this Agreement shall not become effective except upon satisfaction of each of the following conditions:

(a) All of the Members shall have signed this Agreement prior to the Effective Time and none of the Members shall have taken any action to withdraw from or disavow its obligations under this Agreement; and

(b) All of the conditions precedent to the Closing described in the Purchase Agreement shall have been satisfied or waived.

This Agreement shall be void and of no further force and effect if, and at the same time as, the Purchase Agreement shall be terminated for any reason.

4. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any counterpart signature page delivered by facsimile transmission shall be deemed to be and have the same force and effect as an originally executed signature page. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned, by its duly authorized officer, has caused this Conditional Withdrawal Agreement to be signed as of the date set forth first above, to be effective subject to the conditions recited therein.

SOUTHWEST POWER POOL, INC.

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the undersigned, by its duly authorized officer, has caused this Conditional Withdrawal Agreement to be signed as of the date set forth first above, to be effective subject to the conditions recited therein.

MEMBER NAME

By: _____

Name: _____

Title: _____

SPP- MISO Membership Agreement Comparison

PROVISION	SPP	MISO	COMMENTS
Definitions	Following are in the SPP Agreement only: Agreement; Board of Directors; Bylaws; Distribution Facilities; Electric Transmission System; NERC; Security Coordinator; SPP; SPP Criteria; SPP Region; Standards of Conduct; Tariff Facilities; Transmission Customer (Section 1)	Following are in the MISO Agreement only: Agency Agreement; He, Him, or His; Non-transferred Transmission Facilities; Transfer Date; Transmission System; User (Article 1)	Definitions are substantially the same except as noted; "Member" definitions differ only in that SPP definition appears more completely in its Bylaws rather than Membership Agreement
Operational Responsibilities of Organization	Section 2	Article 3; Appendix E; MISO does impose penalties for violations: up to \$10k per day, per violation; withholding of revenues; termination of service to a user	Substantially same responsibilities; MISO doc contains more details
Obligations of Owners and Non-Owners	Section 3	Article 4; Appendix E	Substantially same responsibilities; MISO doc contains more details
Withdrawal	By written notice to President; effective Oct 31 of following calendar year AND at least 12 months notice;	By written notice to President; Non-Owner withdrawal effective 30 days after noticed; Owner withdrawal effective Dec 31 of following calendar year, but not within 5 years of signing	Provisions re: existing contracts for service, financial obligations, construction of facilities, and other obligations are substantially the same
Removal of a Member	BOD may remove Member for cause (Section 6)	No similar provision in MISO agreement	

PROVISION	SPP	MISO	COMMENTS
Membership Fee	SPP has no fee, but a monthly assessment; formula in SPP Bylaws Section 7.2	Initial fee of \$15,000; annual fee of \$1,000; adjustable by BOD (Article 6)	
Regulatory and Other Authorities	Agreement is subject to approval of FERC or ceases to be effective; if FERC or court order alters agreement so as to adversely effect Member, Member may withdraw (Section 5.1)	Same as SPP, but does explicitly address court order scenario; also allows withdrawal if adversely impacted by decision of state regulatory authority, or any other governmental body; withdrawal under this provision requires FERC approval (Article 7A)	Provisions are substantially the same except for requirement of FERC approval
Tax Authorities	Section 5.2	Article 7B; withdrawal under this provision requires FERC approval	Provisions are substantially the same except for requirement of FERC approval
Owners/Members that are a Governmental Entity	Section 5.3	Article 7C; withdrawal under this provision requires FERC approval	Provisions are substantially the same except for requirement of FERC approval
Market Monitoring	No such provision in SPP agreement	Article 8	SPP, MISO and Alliance have entered into a contract for joint market monitoring services
Governing Law	Arkansas (Section 8.1)	Delaware (Article 9B)	
Renegotiation	Parties only have to pursue renegotiation of an issue for 60 days before allowed to initiate withdrawal or termination rights (Section 8.5)	No time limit set on renegotiation efforts- only if they are “unsuccessful” (Article 9G)	

PROVISION	SPP	MISO	COMMENTS
Limitations on Liability to other Owners	No such provision in SPP agreement	Limits liability of an owner where it is acting at the direction of MISO (Article 9K)	
Limitations on Liability of Organization	SPP Bylaws, Section 3.15	Article 2, VIII	Provisions are substantially the same
Amendment of Agreement	Agreement may be amended by the BOD and members will be bound by amendments so long as they have the opportunity to challenge at FERC (Section 8.12)	Same as SPP, except Owners must approve changes to: ownership rights; BOD composition for 5 yrs; duties of the parties; access to books/records; compliance rqmts; revenue distribution; pricing; withdrawal rights (Article 2, IX)	
Standards of Conduct	Separate document for SPP	Appendix A	Standards are substantially the same
Planning/Committee	Mentioned in Section 3.9; more details in SPP Bylaws, Section 5.1 Engineering and Operations Committee	Appendix B; establishes process to be used by MISO for planning; establishes Planning Advisory Committee	Substantially same; MISO includes more detail
Grandfathered Agreements	Addressed in SPP Tariff	Appendix C; details pricing, revenue distribution, return on start-up costs, and renegotiation procedures; grandfathered date is "First Substantive Order Date"- date FERC first accepts Membership Agreement and Tariff	

PROVISION	SPP	MISO	COMMENTS
Dispute Resolution	SPP Bylaws; options for informal dispute resolution and mediation proceedings; SPP allows for binding and non-binding arbitration (Section 3.13)	Appendix D; options for informal dispute resolution and mediation proceedings; MISO allows only binding arbitration	MISO more completely details procedures for each proceeding; MISO has an ADR Committee
Bylaws	Separate document for SPP	Appendix F of MISO agreement	Separate comparison to be done, if necessary; suggest that bylaws should be a separate document rather than incorporated into membership agreement
Non-transferred Facilities	Addressed in SPP RTO Membership Agreement	Appendix G; agency agreement to be executed by owners for non-transferred facilities; allows MISO to offer and provide service over the facilities	Provisions are substantially the same
Transmission Systems Facilities	Addressed in SPP RTO Membership Agreement	Appendix H; details info required for facilities transferred to MISO control for planning and ops	Provisions are substantially the same
Independent Transmission Companies (ITCs)	Addressed in SPP RTO Membership Agreement	Appendix I; details relationship between MISO and ITC	SPP allows for, but reviews details for a contract on a case-by-case basis; MISO uses Appendix I as basis for contract
Character of Organization	SPP Bylaws (Section 1.13)	Article 2, Sections I and II	

PROVISION	SPP	MISO	COMMENTS
Board of Directors	SPP Bylaws (Section 4)	Initial Board; succeeding Board; qualifications; Chair; resignation; removal (Article 2, III)	Pending direction from BOD sub-committee re: BOD composition, voting requirements, and Executive Session topics
Officers and authorities	SPP Bylaws (Sections 1.12 and 3.4)	Article 2, IV	MISO includes substantially more detail of roles and authorities of officers
Member Meetings	SPP Bylaws address meetings (Section 3.14)	Details notice and voting requirements of meetings (Article 2, V)	
Committees	SPP Bylaws; Committees directly created: Engineering and Operating Committee; Commercial Practices Committee; Employee Benefits Working Group; Compliance Working Group; Finance Working Group; others created as needed at discretion of above or the BOD (Section 5)	Stakeholder Advisory Committee; Owners' Committee	
Indemnification of Directors, Officers, Agents, and Employees	SPP Bylaws, Section 3.15.3	Article 2, VIII	Provisions are substantially the same

SPP-MISO TARIFF COMPARISON

Prepared by Michael Small

October 28, 2001

1. Grandfathering of Prior Transmission and Bundled Sales Agreements

The cut-off date for grandfathering agreements differs under the Midwest ISO and SPP tariffs. Under the Midwest ISO tariff, transmission and bundled sales contracts entered into before September 15, 1998 are grandfathered. Contracts subsequent to that date are not grandfathered. The SPP grandfathering date for long-term firm point-to-point service is April 1, 1999 and for network service is February 1, 2000. The SPP tariff also contains special grandfathering provisions for SPA.

2. Load under Tariff

Pursuant to FERC's recent order, Midwest Independent Transmission System Operator, Inc., Opinion No. 453, 97 FERC 61,033 (October 11, 2001), the Midwest ISO tariff must include all load including bundled retail load and grandfathered contracts under the tariff. This FERC order shows that whether SPP merges with the Midwest ISO or not, all load in the SPP area will be under an RTO's tariff. The current SPP tariff contains provisions transitioning retail load to the SPP tariff. SPP's RTO tariff shortened the transition periods so that retail load with choice that remained bundled would come under the tariff in 2003 and all other bundled load would come under the tariff in 2008. Grandfathered agreements would not come under the SPP tariff for the entire length of the contract.

3. Transmission Rates

There are three significant differences. For through and out point-to-point transmission service, the SPP tariff provides that the rate will be the lowest zonal rate of the interconnected zones. The Midwest ISO tariff provides that the through and out rate will be the weighted average of all zonal rates. And, there will soon be a Midwest ISO filing proposing to increase the through and out rate further to recover a portion of lost revenues; i.e. revenues lost due to the elimination of rate pancaking. The second significant difference is that the SPP tariff uses stated rates from the transmission providers while the Midwest ISO

tariff contains a rate formula to determine the rates, with the rates adjusting each year. Under the Midwest ISO structure, however, each transmission owner has the option of filing a fixed rate to replace its formula rate. Finally, the Midwest ISO tariff contains a charge to collect lost revenues for the Alliance companies as part of the settlement allowing Midwest ISO transactions to take place over Alliance facilities without paying an additional charge.

4. **Construction of New Facilities**

The SPP tariff applies FERC's "higher of" policy. That is, if the charge for the new facilities is higher than the charge for the existing facilities with the new facilities rolled in, then the customer pays the charge for the new facilities but not for the existing facilities. The Midwest ISO filed in October a new Attachment N to allow direct assignment of new facility costs to customers in a comparable manner. A customer, thus, would pay for the new facility costs plus the costs of existing facilities if this schedule were accepted. Also, under this schedule, a 100 basis point premium on rate of return on equity will be added for new facilities and the Midwest ISO will have the ability to offer an additional 200 basis point premium on certain new facilities. Prior to this filing, the Midwest ISO's tariff on this issue was the same as the SPP tariff.

5. **Redispatch of Generation**

Both tariffs provide for redispatch in order to prevent curtailment of existing firm schedules with the costs spread to all load including bundled load. The principal difference is with regard to other redispatch. Under the Midwest ISO Agreement and Tariff, all generators are required to submit offers to redispatch with the Midwest ISO operating an electronic bulletin board to allow the matching of customers with generators. Under the SPP tariff, SPP will facilitate redispatch and help to match generators and customers. However, generators are not required to submit bids to redispatch. The other major difference is that under the SPP tariff, the total charges to be paid by the customer under the SPP tariff shall not exceed the total charges the customer would have paid under the tariffs of the transmission owners. As a result of this provision, there is little redispatch that occurs. There is no similar limitation under the Midwest ISO tariff.

6. **Adder to Recover Operating Costs of SPP/Midwest ISO**

The SPP tariff provides for a charge capped at 20 cents per MWH to allow SPP to recover 80 percent of its total expenses. The SPP operating costs not recovered by this adder are recovered from SPP's members. This charge only applies to load under the tariff. The Midwest ISO's tariff contains a cost adder capped at 15 cents per MWH. Any amounts not recovered under that adder are financed and recovery deferred until after the end of the six-year transition period, with the deferred amounts recovered from all load. FERC's Opinion No.453 required that all load including bundled retail and load under grandfathered agreements pay this charge and the Midwest ISO recently filed to implement this requirement. In contrast, under the SPP tariff bundled retail load and load under grandfathered agreements does not directly pay the adder (though FERC's Opinion No.453 makes clear that under an RTO tariff such loads must pay the adder). The Midwest ISO also recently filed to unbundle its costs (i.e. broke its adder costs down by function) to allow independent transmission companies to pay only for those services they use. SPP has done no such unbundling.

7. **Schedule 4, Energy Imbalance**

The Midwest ISO tariff contains a new Schedule 4 to replace each transmission owner's schedule 4. This Schedule 4 contains a method for settling imbalances, with principal reliance on market prices. The current SPP tariff relies on each transmission owner's Schedule 4 which likely will not have a market settlement mechanism and which will be different. SPP, however, was working on a market settlement system when its RTO proposal was rejected by FERC.

8. **Losses**

The basic methods for calculating losses for each transaction are the same. However, there are some differences. First, the SPP tariff provides a mechanism for the financial settlement of losses. The Midwest ISO tariff does not currently contain such a provision, but the Midwest ISO staff wants to impose a similar mechanism. Second, the loss factors for each of

the Midwest ISO zones have or will be recalculated based upon the loss method. The loss factors for each of the SPP transmission owners were not recalculated.

9. **Compensation for Deferred Maintenance Costs**

The SPP tariff contains a provision detailing how that compensation will be calculated. The Midwest ISO tariff contains no such provision though the Midwest ISO Agreement requires that the Midwest ISO provide such compensation.

10. **Generation Interconnection Procedures and Standardized Agreements**

Both SPP and the Midwest ISO have standardized generation interconnection procedures that are substantially similar. FERC has accepted SPP's procedures while the Midwest ISO's procedures currently are pending. The Midwest ISO has filed a standardized form of interconnection agreement which is pending at FERC. While SPP worked on one, it was never filed.

11. **Independent Transmission Companies**

The Midwest ISO has formalized procedures in Appendix I of the Midwest ISO Agreement addressing the treatment of independent transmission companies. Among other things, Appendix I allows the independent transmission company to control its own rates, though it would be under a single tariff. SPP has no formalized procedures, though in large part the arrangement with Entergy was consistent with Appendix I.