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415 N. McKinley, #800 Plaza West  
Little Rock, AR 72205-3020  
501/664-0146 \* Fax: 501/664-9553

Nicholas Brown  
Senior Vice President & Corporate Secretary

August 19, 2003

Mr. Gene Argo	Ms. Trudy Harper	Mr. Al Strecker
Mr. David Christiano	Mr. Quentin Jackson	Mr. Larry Sur
Mr. Roland "Harry" Dawson	Mr. John Marschewski	Mr. Richard Verret
Mr. Michael A. Deihl	Mr. Tom McDaniel	Mr. Gary Voigt
Mr. Dick Dixon	Mr. Stephen Parr	Mr. Walt Yeager
Mr. Jim Eckelberger	Mr. Harry Skilton	
Mr. Michael Gildea	Mr. Richard Spring	

**Hello!**

Enclosed is an agenda and background materials for our upcoming SPP Board of Directors Meeting Tuesday, August 26, 2003, at the Embassy Suites Hotel, Kansas City, Missouri. The meeting will be from 10:00 a.m. until 3:00 p.m.

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  
Tuesday, August 26, 2003  
Embassy Suites Hotel – Kansas City Airport – Kansas City, MO**

**- A G E N D A -**

**10 a.m. – Meeting – Salon E**

1. Administrative Items .....Mr. Al Strecker
2. Nominating Task Force Report ..... Mr. David Christiano
3. Finance Working Group Report .....Mr. Harry Skilton
4. Strategic Planning Committee Report ..... Mr. Richard Spring
5. Tariff Fee Recommendation..... Mr. Tom Dunn
6. Operations Report ..... Mr. Carl Monroe

Executive Session

**3 p.m. – Adjournment**

**Southwest Power Pool  
Nominating Task Force  
Report to the Board of Directors**

**August 26, 2003**

**Background**

J. M. Shafer's departure from Western Farmers creates a vacant transmission owner seat on the SPP Board of Directors, as well as leaving vacant the vice chair position. SPP Chair Al Strecker asked the Nominating Task Force to present nominations for these positions at the August 26, 2003 Board of Directors meeting, for filling these vacancies. Additionally, there remains a vacant non-stakeholder director position on the Board of Directors for which the Nominating Task Force is responsible to submit a nomination. Members of the Nominating Task Force include Chair, David Christiano (SPRM), Dick Dixon (Westar), Mike Deihl (SWPA), Gary Voigt (AREC), Steve Parr (Kepco), and Al Strecker (OKGE). Nick Brown serves as the staff secretary to the group.

**Current Board of Directors Roster**

The current SPP Board of Directors roster with terms is as follows:

Transmission Owners (Bylaws require 7)

IOU

Dick Dixon (Westar) – 1 year  
Richard Verret (AEP) – 1 year  
Al Strecker (OKGE) – 2 year  
Richard Spring (KCPL) – 3 year

Non-IOU (Bylaws require at least 2)

Open – 2 year  
Gene Argo (MIDW) – 2 year  
Mike Deihl (SWPA) – 3 year

Transmission Users (Bylaws require 7)

Cooperative (Bylaws require 2)

Gary Voigt (AREC) – 1 year  
Stephen Parr (Kepco) – 2 year

Municipal (Bylaws require 2)

Harry Dawson (OMPA) – 1 year  
David Christiano (SPRM) – 3 year

IPP/Marketer/Other (Bylaws require 3)

Trudy Harper (Tenaska) – 2 year  
Michael Gildea (Duke) – 3 year  
Walt Yeager (Cinergy) – 3 year

Non-stakeholders (Bylaws require 7)

Vacant – 3 year  
Tom McDaniel – 3 year  
Jim Eckelberger – 2 year  
Quentin Jackson – 2 year  
Harry Skilton – 1 year  
Larry Sur – 1 year  
John Marschewski - President

Dialogue with state regulatory agencies related to changes being proposed to SPP's governing documents by the Strategic Planning Committee revealed strong interest in SPP's utilization of a search firm in filling non-stakeholder director vacancies, rather than simply soliciting candidates from the membership. The intent of this is to provide an additional layer of independence to the process. As such, the Nominating Task Force authorized Nick Brown to engage Larry Klock of Russell Reynolds Associates to assist in the search to fill the vacant non-stakeholder director seat. A nomination will be presented to the membership at their October 29, 2003 meeting.

**Nominations**

The Nominating Task Force nominates to the Board of Directors Gary Roulet to fill the vacant transmission owner seat on an interim basis until the next meeting of members, and Jim Eckelberger for vice chair.



**SPP COMPARITIVE BALANCE SHEET 2001 - 2003**

Balance Sheet (\$000)	Co. Prepared <b>2Q'01</b>	Co. Prepared <b>2Q'02</b>	Co. Prepared <b>2Q'03</b>
<b>Assets</b>			
<b>Current Assets</b>			
Cash and Equivalents	\$24,930	\$10,296	\$8,691
Accounts Receivable	8,390	15,609	18,160
Prepaid Expenses	225	335	307
<b>Total Current Assets</b>	<b>\$33,545</b>	<b>\$26,240</b>	<b>\$27,158</b>
Property and Equipment (net)	16,916	25,476	19,041
Other	0	162	121
<b>TOTAL ASSETS</b>	<b>\$50,461</b>	<b>\$51,878</b>	<b>\$46,320</b>
<b>Liabilities and Member Equity</b>			
<b>Current Liabilities</b>			
Accounts Payable	\$8,713	\$13,719	\$17,376
Customer Deposits	12,907	9,715	7,038
Accrued Expenses	458	733	708
Current Maturities of Short and Long Term Debt	223	0	5,000
<b>Total Current Liabilities</b>	<b>\$22,301</b>	<b>\$24,167</b>	<b>\$30,122</b>
Long Term Obligations	25,000	25,000	20,000
<b>Total Liabilities</b>	<b>\$47,301</b>	<b>\$49,167</b>	<b>\$50,122</b>
<b>Member's Equity</b>	<b>\$3,160</b>	<b>\$2,711</b>	<b>(\$3,802)</b>
<b>TOTAL LIABILITIES AND MEMBER'S EQUITY</b>	<b>\$50,461</b>	<b>\$51,878</b>	<b>\$46,320</b>



**SPP COMPARITIVE INCOME STATEMENT: 2001 - 2003**

Income Statement (\$000)	Co. Prepared <u>Jan-Jun '01</u>	Co. Prepared <u>Jan-Jun '02</u>	Co. Prepared <u>Jan-Jun '03</u>	Budget <u>Jan-Jun '03</u>
<b>Income</b>				
Member Assessments	\$5,645	\$6,073	\$2,487	\$5,616
Schedule 1 Fees (net)	2,578	7,851	8,210	7,500
Other Income	1,373	930	1,605	490
<b>Total Income</b>	<b>\$9,596</b>	<b>\$14,854</b>	<b>\$12,302</b>	<b>\$13,606</b>
<b>Expenses</b>				
Salary & Benefits	\$4,511	\$5,442	\$5,859	\$6,307
Employee Travel	347	306	301	417
Administrative	407	577	678	800
NERC Assessment	651	607	467	371
SPP/NERC Meetings	159	55	86	72
Communications	298	599	541	778
Leases & Maintenance	1,228	2,022	1,847	2,123
Capital Expenditures	3,590	939	491	983
Consulting Services	1,122	4,678	1,870	1,755
Depreciation & Amortization	0	0	0	0
Interest Expense	0	0	0	0
<b>Total Expenses</b>	<b>\$12,313</b>	<b>\$15,225</b>	<b>\$12,140</b>	<b>\$13,606</b>
<b>Excess Income/(Expense)</b>	<b>(\$2,717)</b>	<b>(\$371)</b>	<b>\$162</b>	<b>\$0</b>
<b>Capital Expenditures</b>				



## FIXED CHARGE COVERAGE CALCULATION

For the Period July 1, 2002 through June 30, 2003

### Consolidated Cash Flow (\$000)

	<u>3Q'02</u>	<u>4Q'02</u>	<u>1Q'03</u>	<u>2Q'03</u>	<u>Trailing 4 Quarters</u>
Net Income (Loss) for Period	(\$409)	(\$1,538)	(\$1,994)	(\$2,093)	(\$6,034)
Depreciation and Amortization	733	1,657	2,242	2,242	\$6,874
Interest	536	506	469	506	\$2,017
Leases and Rents	113	125	151	155	\$544
<b>Total Consolidated Cash Flow</b>	<b>\$973</b>	<b>\$750</b>	<b>\$868</b>	<b>\$810</b>	<b>\$3,401</b>

### Fixed Charges (\$000)

Interest	\$536	\$506	\$469	\$506	\$2,017
Leases and Rents	113	125	151	155	\$544
<b>Total Fixed Charges</b>	<b>\$649</b>	<b>\$631</b>	<b>\$620</b>	<b>\$661</b>	<b>\$2,561</b>

### Fixed Charge Coverage Ratio

	1.33	Actual
	1.00	Covenant

**Southwest Power Pool  
Strategic Planning Committee  
Report and Recommendations to the Board of Directors**

**August 19, 2003**

**Background**

On March 20, 2003, the Strategic Planning Task Force was formed to completely review the SPP organization considering the current industry environment and to make appropriate recommendations to the Board of Directors. The Initial Report of this task force was presented and accepted by the Board of Directors at its April 14, 2003 meeting. A Secondary Report was presented and accepted by the Board of Directors at its June 24, 2003 meeting, containing a recommendation that the task force become a permanent group reporting to the Board of Directors and called the Strategic Planning Committee (SPC). This report provides responses and recommendations to the actions contained in the Secondary Strategic Plan Report, specifically regarding modification to SPP's governance and related documents for a filing seeking recognition of SPP as an independent regional transmission organization.

**Strategic Planning Committee**

The SPC is comprised of a diverse group of representatives from SPP members:

Richard Spring, Chair  
VP Transmission Services  
Kansas City Power & Light

Richard Dixon, Vice Chair  
Sr. VP Operations Strategy  
Westar Energy, Inc.

Michael Gildea  
Manager Regulatory Policy  
Duke Energy North America

Trudy Harper  
VP & General Manager  
Tenaska

Mel Perkins  
Director Transmission Policy  
Oklahoma Gas & Electric, Co.

Ricky Bittle  
Vice-President  
Arkansas Electric Cooperatives

Michael Desselle  
Director Public Policy  
American Electric Power

David Christiano  
Director Electric Systems Control  
City Utilities of Springfield, MO

John Marschewski  
President  
Southwest Power Pool, Inc.

Nick Brown & Carl Monroe, Facilitators  
Sr. VP & VP Operations  
Southwest Power Pool, Inc.



**Collaborative Process**

The SPC used an open collaborative process in the development of documents contained in this report, seeking input from all interested parties. This process included, but was not limited to seeking input on various governance models for evaluation (requested June 26, 2003), and seeking input on proposed governance documents (requested July 25, 2003) with a related workshop on July 31 to provide background information, SPC reasoning and to answer questions. Since the last Board of Directors meeting, the SPC held open meetings on July 10-11 and August 14-15, 2003 and teleconference meetings on July 23, 24, and 30, 2003. All meetings were publicly noticed with agendas and background materials distributed via the SPC email exploder list and posted on SPP's website. Several non-stakeholder directors and representatives from SPP's state regulatory agencies were actively involved in the SPC meetings. Minutes of these meetings can be obtained on the website. In addition to SPC meetings, representatives of the SPC and Staff continue to meet with FERC and state regulatory agencies to provide information and solicit direct input.

**Governance Evaluation**

The Board of Directors at its June 24, 2003 meeting accepted that SPP's current governance structure affirmed on April 14, 2003 may not meet the expected requirements of independence expressed by the FERC. As such, the Board directed the SPC to submit further governance recommendations, including bylaws changes, to the Board in August, recognizing the need to maintain the current level of stakeholder input at all Board meetings. While there is practically an infinitum of possible governance structures that could be evaluated, five alternative models were developed to bring focus to discussion. These models represented the reasonable range of alternatives and are described here:

Model A: As Is

This model maintains SPP's current hybrid board structure consisting of 21 directors with 7 in each of three categories - transmission owner, transmission user, and non-stakeholder. This model is intended to balance the interests of transmission owners and transmission users.

Model B: As Is w/ Weighted Voting

This model maintains SPP's current hybrid board structure, but voting results weighted 49% to stakeholder directors and 51% to non-stakeholder directors, with approval requiring a simple majority. This model is intended to balance the interests of stakeholders and non-stakeholders while giving a slight advantage to non-stakeholders (their vote will always carry, to the extent, but only to the extent, that they are unanimous in their decisions.)

Model C: Non-Stakeholder Voting w/ Stakeholder Directors

This model maintains SPP's current hybrid board structure, but voting rights are afforded only to non-stakeholder directors. This model is intended to provide all the independence of a complete non-stakeholder board while insuring stakeholder input in the decision-making process because it guarantees a seat at the table during all dialogue.

Model D: Non-Stakeholder Board w/ Members Committee Participation

This model contains a complete non-stakeholder board, but maintains the "look and feel" of SPP's current hybrid board structure with an elected Members Committee structured like the current stakeholder sectors, with a sole responsibility of meeting with the board at all of its meetings except for executive session (limited to personnel and legal issues.) This model is intended to provide maximum independence while providing stakeholder input in most matters, and limiting liability to stakeholder representatives who have no vote.

Model E: Non-Stakeholder Board w/ Advisory Committee

This model contains the typical non-stakeholder board structure, with stakeholder input limited to an advisory capacity. This model is intended to provide maximum independence while providing an opportunity for stakeholder input in some matters, but no guarantee to participate in the dialogue that leads to many decisions.

The models were evaluated based on various characteristics rather than "pros and cons" due to SPP's varied constituency (one member's con tends to be another's pro). The following characteristics were used to evaluate the models and are based on SPP's historic value propositions and regulatory constraints.

1. Regulatory Acceptability – degree to which federal and state regulators will support and accept the governance structure.
2. Transparency to Stakeholders – degree to which stakeholders can understand and influence the board's decision-making process.
3. Stakeholder Preference – degree to which stakeholder are comfortable with the governance structure.
4. Non-Stakeholder Accountability – degree to which SPP and stakeholder interests are in the hands of non-stakeholders.
5. Degree of Change – degree of change from the present situation.
6. Staff Influence – degree to which the Staff can influence the decision-making process.

A matrix developed by the SPC comparing and contrasting the various governance models is included as Attachment 1. Following lengthy discussion, the SPC agreed that the non-stakeholder board with a members committee (Model D) best met FERC's

expectation of independence while maintaining transparency and meaningful stakeholder input into decision-making processes.

### **Proposed Governance Changes**

SPP's governance is dictated by two enabling documents; the SPP Bylaws and the SPP Membership Agreement. These two documents were reviewed and edited by the SPC to accommodate the governance model selected above and to meet the requirements of FERC Order 2000 for independent regional entities, FERC's current rules. The documents were also reviewed with respect to FERC's White Paper on Standard Market Design as the best guide to FERC's forward thinking.

Proposed changes to SPP's Bylaws focus on the Board of Directors structure and the structure of committees reporting to and/or advising the Board of Directors. The Bylaws provide for a complete non-stakeholder board of seven directors, which is required (except for executive sessions) to meet with an elected Members Committee structured like the current stakeholder sectors. Of particular note also is the addition of a Regional State Committee to formalize the input of SPP's state regulatory agencies in SPP's decision-making processes. This new process maintains SPP's current structure allowing any entity having regulator jurisdiction over a SPP member to participate directly, and adds a new formal process to allow for collective input by these bodies. An organizational chart and a table summarizing the proposed governance structure are included as Attachments 2 & 3. Proposed modifications to SPP's Bylaws are included as Attachment 4. Proposed changes to SPP's Membership Agreement are included as Attachment 5, and can be summarized as only those changes needed to reflect current regulatory requirements on the functional control of independent regional transmission organizations over the facilities of participating transmission owners.

### **Related Documents**

In the Initial Strategic Plan Report, the SPC included a recommendation accepted by the Board of Directors that SPP should file an attachment to its tariff facilitating independent transmission company (ITC) participation by interested transmission owners. The SPC developed in consultation with Translink an attachment to SPP's Membership Agreement that allows for ITC participation. The agreement was patterned after the ITC agreement developed by and between Translink and the Midwest ISO, which was accepted by the FERC. The document was distributed to the membership for review and is included as Attachment 6. This document would also be included in a SPP filing seeking recognition as an independent regional transmission organization.

The Initial Strategic Plan Report also included a recommendation that SPP should continue to work with neighboring entities on regional membership expansion

opportunities and should develop seams agreements and/or joint markets with neighboring companies who choose not to participate in SPP and with neighboring regional entities. To this end, the SPC has developed a form of a seams agreement for inclusion in a SPP filing seeking recognition as an independent regional transmission organization, indicating SPP commitment in this regard. This form of an agreement is included at Attachment 7 and Staff should immediately begin negotiations with neighboring entities on the development of specific agreements consistent with this form document.

### **Filing Development**

If the Board of Directors approves the attached governing documents and authorizes a filing seeking SPP recognition as an independent regional transmission organization, the SPP Staff will independently develop the filing letter, which acts as the legal argument for how SPP meets the regulatory requirements and expectations for independent regional entities. As in previous filings, this independent action has been necessary due to the fact that SPP's members can all be parties to the filing docket and intervene individually in support of or in protest to some or all elements of the filing. While Staff will develop the total of the filing without organizational group involvement, Staff will solicit and use supporting testimony from individual members of various organizational groups who led related initiatives. This particular action adds collaborative merit to the filing and represents SPP's diversity of membership and leadership.

The filing letter will explain how the current and proposed SPP organization meets the four characteristics and eight functional requirements of regional entities contained in FERC Order 2000. While FERC's White Paper on Standard Market Design has yet to be codified in an order, the filing letter will also explain how the current and proposed SPP organization meets the regional requirements discussed therein. SPP's current regional transmission service tariff will be submitted as part of this filing. While modifications to this tariff are currently under consideration by the Regional Tariff Working Group, these types of enhancement filings will always be under consideration, and SPP's current tariff meets FERC Order 2000 requirements and is far superior to other regional tariffs submitted as part of a filing seeking independent recognition.

### **Transition Plan**

The SPC is recommending that the governing documents included in this report become effective on the first of the month between the 30<sup>th</sup> and 60<sup>th</sup> day following a final related FERC order accepting the documents. While some aspects of the proposed changes may be appropriate to implement on a sooner time frame, the SPC will

consider this after Board of Directors consideration of the documents in their entirety for the RTO filing, and will make appropriate recommendations at a future meeting.

While the SPC was not initially going to make recommendations at this time about the transition to the non-stakeholder board structure, many questions were raised and opinions expressed during the comment period on the governing documents. As such, the SPC believes it an important issue to resolve at this time to aid member and regulatory evaluation of the related recommendations and for a more complete RTO filing for an organization that is already in existence. The SPC is recommending grandfathering the existing Board of Directors personnel and their related terms into the proposed structure. This would result in the current non-stakeholder directors becoming the new Board of Directors, and the existing stakeholder directors becoming the Members Committee.

When the current non-stakeholder directors were selected, the Nominating Task Force (NTF) at that time considered it a strong possibility that the FERC could require SPP to transition to a complete non-stakeholder board at some time in the future. As such, the NTF advised the independent search firm of Russell Reynolds Associates of this potential and evaluated the provided candidates as if they would serve as a non-stakeholder board. This approach was undertaken to utilize the time served on the hybrid board structure to provide the non-stakeholder directors with more detailed experience on industry issues. While some have suggested an open election process in transitioning to the proposed board structure, the SPC believes this conflicts with the previous strategy to develop directors, and unnecessary due to the rotating terms for the existing directors that provides for review of two directors each year.

The transition of SPP into a FERC recognized regional entity is causing the Southwestern Power Administration to meet certain federal requirements prior to continuing their participation in SPP. The SPC supports the accommodation of Southwestern Power Administration's statutory constraints in order to retain their membership in SPP and will make all reasonable efforts to do so. Subsequent related recommendation from the SPC will be presented to the Board of Directors in the near future.

### **Recommendations**

The Strategic Planning Committee recommends that the Board of Directors:

- 1) Approve the attached modifications to the SPP Bylaws and Membership Agreement (including the attachment providing a form of an agreement for independent transmission company participation) for filing with FERC in an application for recognition as a regional transmission organization. The

documents are to become effective on the first day of the calendar month occurring between the 30<sup>th</sup> day and 60<sup>th</sup> day following a final FERC order recognizing SPP as a regional transmission organization.

- 2) Authorize the Staff to file an application with FERC as soon as practicable seeking SPP recognition as a regional transmission organization pursuant to FERC Order 2000, and to make necessary corrections and formatting changes to the governing documents subject to review of the SPC.
- 3) Approve a transition to the new governance structure by which SPP's non-stakeholder directors become the Board of Directors and the stakeholder directors become the Members Committee, all carrying forward their current terms.
- 4) Accept the attached form of a seams agreement for inclusion in the FERC filing, and authorize the SPP Staff to immediately begin negotiations with neighboring entities on specific agreements pursuant to this form.

**Approved:** Strategic Planning Committee

August 15, 2003

**Action Requested:** Approve Recommendations

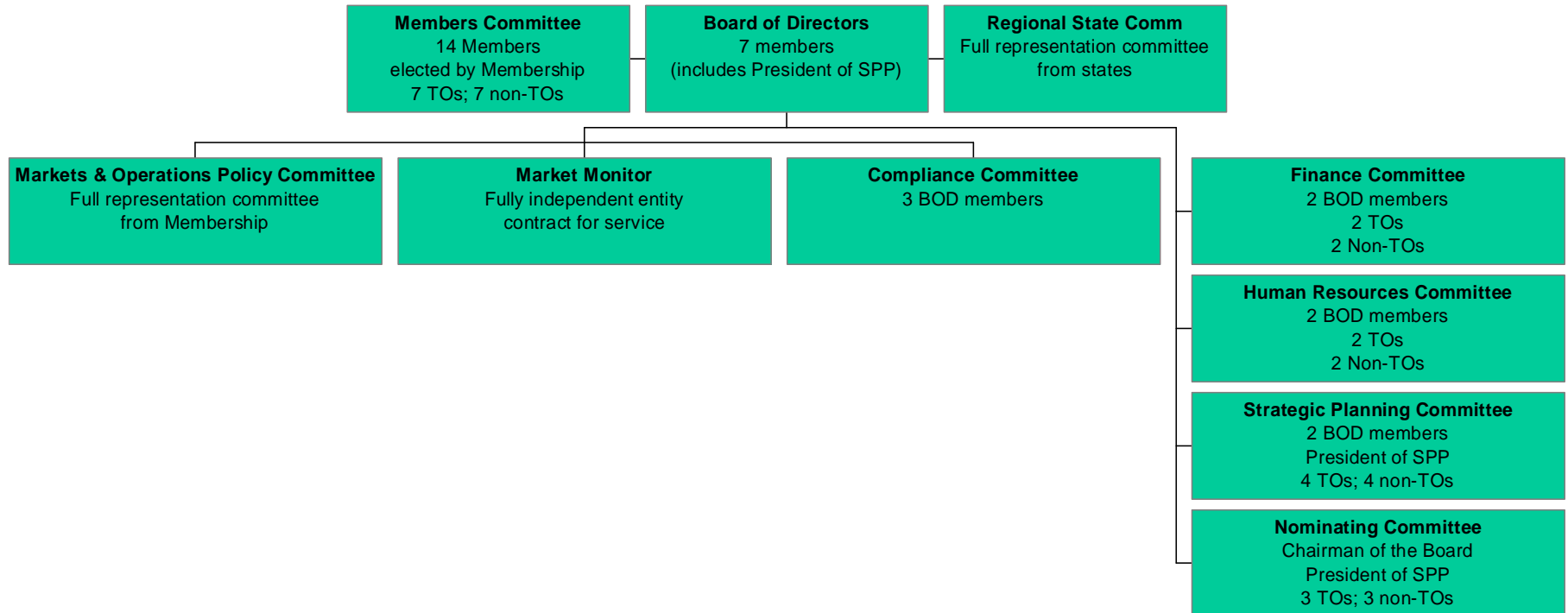
**Southwest Power Pool, Inc.  
Strategic Planning Committee  
Comparative Evaluation of Governance Models**

	OPTION A	OPTION B	OPTION C	OPTION D	OPTION E
	AS IS	AS IS W/WEIGHTED VOTING	NON-STAKEHOLDER VOTING W/STAKEHOLDER DIRECTORS	NON-STAKEHOLDER BOARD W/MANAGEMENT COMMITTEE PARTICIPATION	NON-STAKEHOLDER BOARD W/ ADVISORY COMMITTEE
<b>REGULATORY ACCEPTANCE</b>	< B C D E	> A < C D E	≥ A B < D E	> A B C ≤ E	> A B C D
<b>STAKEHOLDER PREFERENCE</b>	> B C D E	< A > C D E	< A B ≥ D > E	< A B ≥ C > E	< A B C D
<b>NON-STAKEHOLDER ACCOUNTABILITY</b>	< B C D E	> A ≤ C D E	> A B ≤ D E	> A B ≥ C = E	> A B C = D
<b>TRANSPARENCY TO STAKEHOLDERS</b>	= B C > D E	= A C > D E	= A B ≥ D > E	< A B ≥ C > E	< A B C D
<b>STAFF INFLUENCE</b>	= B < C D E	= A < C D E	> A B < D E	> A B C < E	> A B C D
<b>DEGREE OF CHANGE</b>	< B C D E	> A < C D E	> A B < D E	> A B C < E	> A B C D



# SPP Organizational Chart

Draft July 14, 2003





## Southwest Power Pool Proposed Governance Composition

Aug-03

Group	Bylaws Ref.	Members	Appointment	Term	Quorum	Voting	Proxy	Chair	V. Chair
Membership	3.14	Full Representation	Members	N/A	Members Present	2/3 Wtd.	Yes	BOD Chair	BOD V Chair
Board of Directors	4.0	7 including the President	Membership (category voting)	3 years	5	Simple Majority	No	Any Director except Pres	Any Director except Pres
Members Committee	5.1	7 TOs 7 Non-TOs	Membership (category voting)	3 years	NA	NA	Yes	NA	NA
Operations Policy Committee	6.1	Full Representation	Members	1 year	Members Present	2/3 Wtd.	Yes	Any Representative	Any Representative
Strategic Planning Committee	6.2	2 directors President 4 TOs 4 Non-TOs	BOD & MC	1 year	6	Simple Majority	Yes	Director	Director
Human Resources Committee	6.3	2 directors 2 TOs 2 Non-TOs	BOD & MC	1 year	3	Simple Majority	Yes	Director	Any Representative
Compliance Committee	6.4	3 directors	BOD	1 year	3	Simple Majority	Yes	Director	Director
Finance Committee	6.5	2 directors 2 TOs 2 Non-TOs	BOD & MC	1 year	3	Simple Majority	Yes	Director	Any Representative
Corporate Governance Committee	6.6	President Chairman 3 TOs 3 Non-TOs	BOD & MC	1 year	4	Simple Majority	Yes	President	Any Representative

# Southwest Power Pool, Inc.

## BYLAWS

~~January 1, 2000~~

~~(Amended February 19, 2002)~~

~~DRAFT August 12, 2003~~ DRAFT August 15, 2003

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# BYLAWS

## of

### Southwest Power Pool, Inc.

#### PREAMBLE

The values and principles upon which SPP is incorporated and formed include: a relationship-based organization; member-driven processes; independence through diversity of Organizational Group membership; recognition that reliability and economic/equity issues are inseparable; and, deliberate evolutionary, as opposed to revolutionary, implementation of new concepts. These values and principles should guide those serving this organization. The Board of Directors will endeavor to ensure equity to all Members while also assuring the continuous adaptation to controlling conditions within these stated values and principles.

#### 1.0 DEFINITIONS

##### 1.1 Affiliate Relationships

Affiliate Relationships are relationships between SPP Members that have one or more of the following attributes in common:

- a. ~~(1)~~ are subsidiaries of the same company;
- b. ~~(2)~~ one Member is a subsidiary of another Member;
- c. ~~(3)~~ have, through an agency agreement, turned control of a majority of their generation facilities over to another Member;
- d. ~~(4)~~ have, through an agency agreement, turned control of a majority of their transmission system over to another Member, except to the extent that the facilities are turned over to an independent transmission company recognized by FERC;
- e. ~~(5)~~ have an exclusive marketing alliance between Members; or  
~~(6) have a member/owner relationship between two or more Members; or~~
- f. ~~(7)~~ ownership by one Member of ~~40-~~ten percent or greater of another Member.

##### 1.2 Articles of Incorporation

SPP's articles of incorporation ~~containing its mission~~as filed with the state of Arkansas.

##### 1.3 Board of Directors

The Board of Directors of SPP, which shall manage the general business of SPP pursuant to the se Bylaws.

##### 1.4 Bylaws

These bylaws.

### 1.5 Criteria

Planning and operating standards and procedures as approved by the Board of Directors.

### 1.6 Member

An ~~eligible~~ entity ~~which executes a SPP Membership Agreement~~ that has met the requirements of Section 2.2 of these Bylaws.

### 1.7 Membership

The collective Members of SPP.

### 1.8 Membership Agreement

The contract that specifies the rights and obligations of the parties, executed between SPP and an ~~eligible~~ entity seeking to become an SPP member ~~that specifies rights and obligations of parties to the contract.~~

### 1.9 NERC

The North American Electric Reliability Council or ~~its~~ successor organizations.

### 1.10 Net Energy for Load

The electrical energy requirements of an electric system are defined as system net generation plus energy received from others, less energy delivered to others through interchange. It includes system losses but excludes energy required for the storage at energy storage facilities.

### 1.11 Officers

The officers of SPP as elected by the Board of Directors. The Officers consist of the President and the Corporate Secretary, at a minimum. Any Officer must be independent of any Member organization.

### ~~1.11-12~~ 1.12 Organizational Group

A group other than the Board of Directors, of Member representatives comprising a committee or working group that is ~~collectively~~ charged with specific responsibilities toward accomplishing SPP's mission, ~~other than the Board of Directors.~~

### ~~1.12~~ 1.12 President

~~The president of SPP as duly elected by the Board of Directors.~~

### 1.13 SPP

Southwest Power Pool, Inc., ~~a non-profit corporation organized and operating pursuant to the laws of the state of Arkansas.~~

#### 1.14 Staff

The technical and administrative staff of SPP as hired by the ~~President~~ Officers to accomplish SPP's mission.

#### 1.15 Transmission Owning Member

A Member that has placed more than 500 miles of non-radial facilities operated at or above 60 kV under the independent administration of SPP for the provision of regional transmission service as set forth in the Membership Agreement.

#### 1.16 Transmission Using Member

A Member that does not meet the definition of a Transmission Owning Member.

### 2.0 MEMBERSHIP

#### 2.1 Qualifications

Membership in SPP is voluntary and is open to any electric utility, Federal power marketing agency, transmission service provider, and any entity engaged in the business of producing, selling electric energy and/or purchasing electric energy for resale. Membership also is open to any entity eligible to take service under the SPP ~~open-Open access-Access transmission-Transmission tariff~~ Tariff (OATT). These entities desire the greater efficiency and service reliability gained through better coordination by voluntary association in SPP as constituted herein and in the SPP Articles of Incorporation. Members recognize that such association has a significant effect upon the availability and reliability of the bulk electric power supply of the region, and thereby affects the reliability of the nation's electric power supply.

#### 2.2 Applications

Membership by an entity shall be obtained upon meeting the following requirements:

- ~~a. a.~~ Meeting ~~Membership-membership~~ qualifications;
- ~~b. b.~~ Providing an application for membership Applying to the SPP President; and
- ~~c. c.~~ Executing the Membership Agreement and delivering a signed copy to the President; and
- ~~d. d.~~ Paying to SPP its share of working capital.

The President shall review applications, approve those meeting ~~Membership-membership~~ criteria qualifications and promptly give written notice of the new Member to all other Members. The Board of Directors will review any disputes arising as to the qualifications of the new Member. Membership will

commence at the beginning of the next calendar month following completion of these requirements.

### 2.3 Member Responsibilities and Obligations

Members recognize that SPP exists and operates for the benefit of the bulk electric transmission system and to ensure the reliability of the nation's power supply. As such, Members are required to act to further these goals by participating in projects, and complying with regulatory requirements, ~~including participation in projects, execution of changes resulting from regulatory changes, and consent to consolidation with another entity through any legal means determined appropriate by the SPP Board of Directors.~~ Failure to comply with ~~this~~ these provisions will be considered a violation of these Bylaws and the Member may be removed in accordance with the provisions for *Removal of Members* in the ~~SPP~~ Membership Agreement.

### 2.4 Termination, Removal and Reinstatement

The Board of Directors may terminate the ~~Membership~~ membership of any Member in accordance with the Membership Agreement. The President shall promptly give written notice of the removal to all other Members. Any former Member seeking to rejoin SPP shall apply to the Board of Directors for reinstatement. In its application for reinstatement, the former Member shall:

- a. ~~(i)~~ provide evidence that it has fully paid any accrued financial obligation to SPP;
- b. ~~(ii)~~ demonstrate it has corrected the reason for its removal; ~~and~~
- c. ~~(iii)~~ establish that it will be in compliance with SPP ~~Membership~~ membership requirements; ~~and~~
- d. deliver an executed Membership Agreement to the President.

### ~~2.5 Regulatory Agency Involvement~~

~~Any regulatory agency having jurisdiction over a Member may participate in all SPP activities. These representatives shall have all rights as Members except the right to vote.~~

## 3.0 ORGANIZATIONAL ADMINISTRATION

### 3.1 Structure

Member input on Decision-making ~~decision-making~~ shall be accomplished primarily through Membership participation in Organizational Groups. ~~Each Member shall be expected to~~ provide representation to ~~committees~~ Organizational Groups as requested. ~~, and by letter to the President, designate such representative to act for it at Organizational Group meetings. Where appropriate for specific research and development projects or on-going activities, working groups will be formed which may not contain representation from every Member.~~ Working group representation will be appointed by the Board of Directors, who shall consider the various types and expertise of Members and their geographic locations, to achieve a widespread and ~~typical~~ effective representation of the Membership. The ~~chair~~ Chair of any Organizational Group may appoint any ad hoc task forces as necessary to fulfill its mission. Task force appointments shall be made with due consideration of the various types and expertise of Members and



their geographic locations. Participation in certain sessions of Organizational Group meetings where market sensitive issues are discussed may be restricted to persons representing entities that have executed NERC's [Confidentiality Agreement Code of Conduct](#). Representatives on all ~~SPP~~ Organizational Groups will be documented in the ~~SPP Directory~~ [directory](#) maintained by the ~~SPP~~ Staff. ~~Working group and task force~~ [Organizational Group](#) vacancies will be filled on an interim basis by appointment of the President [unless otherwise provided for in these Bylaws](#).

### 3.2 Proxy

If a Member's designated representative is unable to attend an Organizational Group meeting, it may in writing appoint a substitute representative who shall have such rights to participate and vote as the Member specifies.

### 3.3 Leadership

#### 3.3.1 Appointment

The ~~chair~~ [Chair](#) and ~~vice chair~~ of all Organizational Groups shall be [nominated by the Corporate Governance Committee for consideration and appointed](#) ~~appointment~~ by the Board of Directors, ~~following consultation with the parent group leadership and the SPP Staff. The~~ [A vice](#) ~~Vice chair~~ [Chair shall be elected by the members of an Organizational Group, unless provided otherwise in these Bylaws. A Vice Chair shall act for a](#) ~~chair~~ [Chair](#):

- a. ~~at the request of the~~ [Chair](#);
- b. ~~or if the~~ [Chair](#) becomes incapacitated and unable to discharge the functions of the position;
- ~~or~~
- c. ~~or if the position of the~~ [Chair](#) becomes vacant, until a new [Chair](#) takes office.

#### 3.3.2 Terms

The terms of the ~~chair~~ [Chair](#) and ~~vice~~ [Vice chair](#) ~~Chair~~ of all Organizational Groups shall coincide with the two-year term of the Chair of the Board of Directors. Working Group ~~and Task Force~~ representation will be reviewed for appropriateness by ~~each new Chair of the Board of Directors~~ [the Corporate Governance Committee](#).

#### 3.3.3 Vacancies

Should any individual having been appointed as a ~~chair~~ [Chair](#) ~~or vice chair~~ of any Organizational Group be unable to serve for the term specified, or be unable to serve on a NERC Organizational Group under provisions of these Bylaws, a replacement shall be appointed by the Chair of the Board of Directors for the unexpired term of office.

### 3.4 Executive Authority

The ~~SPP staff shall be headed by the President~~ Officers shall carry out, who, for the purposes of carrying out the rights, duties, and obligations of ~~the SPP,~~ and pursuant to ~~the budgetary and other~~ authority granted by the Board of Directors. Officers will execute the SPP Standards of Conduct upon employment. The Standards of Conduct outline the independence requirements for all employees of SPP. The Officers shall be empowered to:

- a. employ qualified technical and administrative employees;
- b. engage office space;
- c. employ outside technical and special service organizations;
- d. execute contracts;
- e. provide for independent regional ~~security-reliability~~ coordination and transmission service administration;
- f. serve as SPP's representative before regulatory bodies, NERC, and in other public forums;
- g. incur reasonable expenses; and
- h. make ~~staff~~ Staff resources available to individual Members or groups of Members on a non-firm, non-priority, first-come-first-serve basis, so as not to interfere with current or future needs and priorities established by SPP.

### 3.5 Meetings

~~SPP~~ Organizational Groups shall meet as necessary ~~to accomplish the SPP mission. Except for executive sessions of the Board of Directors,~~ all SPP meetings shall be open, however, any Organizational Group may limit attendance at a meeting by an affirmative vote of the Organizational Group as necessary to safeguard confidentiality of sensitive information, included but not limited to Order 889 Code of Conduct requirements, personnel, financial, or legal matters. Representatives shall be given at least fifteen days ~~w~~ritten notice of the date, time, place and purposes ~~s~~ of each regular or special meeting. Telephone conference meetings may be called as appropriate by the ~~chair~~ Chair of any Organizational Group with at least ~~one day~~ one-day prior notice. ~~The chair and vice chair of parent groups shall receive copies of all meeting notices.~~

### 3.6 Order of Business

The latest edition of Robert's Rules of Order will generally govern all SPP meetings ~~of SPP Organizational Groups~~ on any point not specifically covered in these Bylaws.

### 3.7 Expenses

The expenses of ~~each a~~ representative participating in the activities of ~~all~~ SPP Organizational Groups and task forces shall be borne by ~~each that~~ respective representative.

### 3.8 Quorum

The quorum for a meeting of ~~any~~ the Markets and Operations Policy committee-Committee or the Membership shall be those Members present, ~~and~~ The quorum for any other Organizational Group or task force, shall be one-half of the ~~Membership-membership~~ thereof, but not less than three ~~Members-members~~; provided, that a lesser number may adjourn the meeting to a later time.

### 3.9 Voting

Each ~~Member- participant in~~ of an Organizational Group shall have one vote. Upon joining, Members shall be assigned to one of two Membership ~~categories-sectors~~ for the sole purpose of voting: ~~;~~ Transmission Owning Members, or Transmission Using Members. Markets and Operations Policy Committee and Membership actions are taken in the following process. Each sector votes separately with the result for that sector being a percent of approving votes to the total number of Members voting. Then the action is approved if the average of these two percentages is at least sixty-six percent. All committee and Membership business must be approved by at least sixty-six percent of the average of the ratio of approving votes to voting Members in each category. If no Members are present within a categorysector, the single present category-votingsector-voting ratio will determine approval. A simple majority of ~~Members-participants~~ present or represented by proxy and voting shall be required for ~~working-groupall other Organizational Group~~ and task force action. ~~To facilitate timely administration, voting by mail may be used for actions requiring approval of any Organizational Group outside of regular or called meetings. Voting by mail will occur only at the direction of the group's chair and the action must have a motion and second by Members of the group. Voting by mail will be expeditiously administered by the Staff Secretary by any widely available means. The outcome of votes taken by mail will be reported at the next meeting of the group and recorded in the meeting minutes.~~

### 3.10 Appeal

Should any Member or group of Members disagree on an action taken or recommended by any Organizational Group, such Member(s) may, in writing, appeal and submit an alternate recommendation to the Board of Directors prior to the meeting at which consideration of the action by the Board of Directors is scheduled.

### 3.11 Staff Independence and Support

SPP Staff members will be required to execute the SPP Standards of Conduct upon employment. The Standards of Conduct outline the independence requirements for employees of SPP. The President shall assign to each Organizational Group an SPP Staff member, who shall attend all meetings and act as ~~Staff Secretary-secretary to the Organizational Group and any ad hoc task forces of that group~~ and perform other functions as necessary. Staff ~~Secretaries-secretaries~~ of all Organizational Groups and task forces shall be non-voting. Minutes shall be kept of pertinent discussion, business transacted, decisions reached, and actions taken at each meeting of SPP Organizational Groups or task forces by the ~~Staff~~

~~Secretary~~secretary. ~~Copies of such minutes shall be sent to each representative and the chair and vice chair of the parent Organizational Group.~~ Minutes shall be considered published documents upon their approval by the Organizational Group or task force.

### 3.12 Publications and Data Bases

SPP shall publish and distribute printed reports as necessary to fulfill the SPP mission ~~and as the creation of such reports are approved by the Board of Directors~~. SPP shall also develop and maintain electronic data bases of relevant technical information as approved by the Board of Directors. ~~All publications will be considered non-proprietary and public information and distribution will not be restricted.~~ The release of information in data bases containing member-specific technical data considered proprietary in nature will be governed by the Membership Agreement and related Criteria and administered by the Staff. In the event member specific non-proprietary technical data is being distributed, SPP will provide written notice of the specific data submitted, to whom it is being submitted and the purpose of such submittal to the respective Member at the same time the data is provided to the requesting party. Publications and technical data will be made available at no charge to Members, other regional councils and their members, and federal and state agencies. Other parties requesting SPP publications or technical data will be charged an amount ~~covering~~ equivalent to production, handling and delivery costs.

### 3.13 Dispute Resolution

These procedures are established for the equitable, efficient and expeditious resolution of disputes. These procedures are intended to cover disputes between any two or more Members, between Members and consenting non-members or between SPP and any Member(s) or consenting non-member(s). SPP and Members are strongly encouraged to take part in the complete process herein described prior to ~~judicial~~ litigation or the utilization of other dispute resolution processes. SPP administrative involvement in the proceeding is to coordinate assembly of a non-biased and independent dispute resolution panel to facilitate the resolution of the dispute and to provide meeting coordination and facilities. If SPP is a party to the dispute, its administrative duties shall be turned over to a contracted facilitator mutually selected by the disputing parties. These procedures do not apply to disputes that are covered by the dispute resolution procedures of the SPP ~~transmission tariff~~ OATT.

#### 3.13.1 Instigation

Any Member may begin these dispute resolution procedures by making a request in writing to the President. ~~This request shall be delivered in writing to the~~ The President, ~~who~~ will forward copies of this request to the Board of Directors. This written request must contain the authorized signatures of all parties to the dispute. The request must contain:

- a. ~~(i)~~ a statement of the issues in dispute, ~~;~~
- b. ~~(ii)~~ the positions of each of the parties relating to each of the issues, ~~;~~

- c. ~~(iii)~~ the specific dispute resolution procedure desired; and
- d. ~~(iv)~~ any agreed-upon modifications or specific additions to the proceedings described in these Bylaws by which the dispute may be resolved.

### 3.13.2 Dispute Resolution Panel

The President shall immediately provide to each party to the dispute, a list of candidates to be used in forming a three-person dispute resolution panel. This list shall be maintained by SPP and can be added to at any time by any Member, ~~and~~ This list shall contain at least ~~6~~ six persons meeting the requirements for independent directors. ~~This list shall contain biographical information on each of at least 10 candidates sufficient to establish qualifications as a panel member.~~ The President shall then call a telephone conference meeting. During this meeting, each party shall alternate striking names from the list until those remaining constitute the dispute resolution panel. This panel shall select a chair from its membership. Should any candidate decline to serve or resign from a current appointment for any reason, the candidate whose name was last struck from the list shall automatically be contacted to serve. The President shall assign a Staff representative to assist the panel as secretary. The President shall manage the panel selection process to ensure its completion within one week from receipt of the request.

### 3.13.3 Resolution Procedures

The types of proceedings available for the resolution of disputes are:

- a. ~~a.~~ — An Advisory Proceeding to assist each party through discussion and advice, on a separate and individual basis without active participation in the joint discussions and negotiations, to resolve the dispute informally by mutual agreement;
- b. ~~b.~~ — A Mediation Proceeding to assist the parties through active participation in the joint discussions and negotiations (including specific recommendations of the issues in dispute) through which the parties indirectly attempt to resolve the dispute informally by mutual agreement; ~~and~~
- c. ~~c.~~ — A ~~binding or~~ non-binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue specific written recommendations ~~(non-binding) or awards (binding)~~ for resolution of each issue in dispute.
- d. A binding Dispute Resolution Proceeding to hear formal evidence on factual matters related to the issues submitted, make written findings and conclusions of fact, and issue directives and awards for resolution of each issue in dispute.

The panel chair shall determine meeting arrangements and format necessary to efficiently expedite the resolution of the dispute, and the Staff ~~Secretary~~ secretary shall notify the parties of these details. Each party to the dispute must have at least one representative present at all related meetings with full authority to resolve the dispute. Upon conclusion of this process, the panel chair shall notify the President of its

outcome. After consultation with the parties to the dispute and the panel chair to determine the completion of the process as described herein, and/or as modified by the parties, the President shall discharge the panel, and notify the Board of Directors of the results. The parties to the dispute agree to complete the process within 90 days from selection of the panel. The Staff ~~Secretary~~secretary shall maintain minutes of the panel meetings, which shall become part of SPP's historical records.

#### 3.13.4 Expenses

The parties to the dispute shall share equally all reasonable charges for the meeting location, administrative costs, and related travel expenses of panel members. The parties to the dispute shall also share equally all reasonable compensation for time and service of panel members and related incremental expenses of the SPP Staff. The President shall determine reasonableness of time and service costs for panel members prior to process implementation. The SPP Staff ~~Secretary~~secretary shall account for these expenses. Each party to the dispute shall be responsible for their respective associated expenses.

#### 3.13.5 Liability

The parties to any dispute which is the subject of these dispute resolution procedures shall hold harmless SPP, its Members, Organizational Groups and each of their directors, officers, agents, employees or other representatives, and the panel members from any liabilities, claims, or damages resulting from any agreement or lack of agreement as a result of the dispute resolution proceedings. The foregoing hold harmless right shall not be extended to the parties to any given dispute or to their directors, officers, agents, employees or other representatives.

#### 3.14 Meeting of Members

The Chair of the Board of Directors shall convene and preside over ~~Meetings~~meetings of Members for the purpose of electing directors to positions becoming vacant in the ensuing year, and any other necessary business. The Membership shall meet at least once per calendar year.

#### 3.15 Liability, Insurance and Indemnification

For purposes of this section "SPP" ~~and "its Members"~~ refers to SPP and its officers, directors, employees or agents, and "Member" refers to the Members of SPP, as defined in these Bylaws. None of the provisions of this section, including the waiver of liability in Section 3.15.1 below, absolving SPP or its Members, directors, officer, agents, employees or other representatives of liability or any provisions for insurance or indemnification apply to actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct.

##### 3.15.1 Waiver of Liability

~~a. a.~~ SPP shall not be liable to any Member for damages arising out of or related to any

directive, order, procedure, action, or requirement of ~~the~~ SPP, under the then effective SPP Bylaws and Criteria ~~as approved by the SPP Board of Directors~~.

- b. ~~b.~~—No Member shall be liable to any other Member or to SPP for damages arising out of or related to any action by the Member pursuant to any directive, order, procedure, action or requirement of ~~the~~ SPP, under the then effective SPP Bylaws and Criteria ~~as approved by the SPP Board of Directors~~.
- c. ~~c.~~—Each Member waives any future claim it might have against SPP or other Members arising out of or resulting from any directive, order, procedure, action or requirement of SPP, under the then effective SPP Bylaws and Criteria ~~as approved by the SPP Board of Directors~~.
- d. ~~d.~~—SPP waives any future claim it might have against any Member arising out of or resulting from any actions taken by a Member pursuant to any directive, order, procedure, action or requirement of ~~the~~ SPP, under the then effective SPP Bylaws and Criteria ~~as approved by the Board of Directors~~.

### 3.15.2 Insurance

The President is authorized to procure insurance ~~, if available at a reasonable cost,~~ to protect SPP, its directors, officers, agents, employees, or other representatives against damages arising out of or related to any directive, order, procedure, action or requirement of ~~the~~ SPP, under the then effective SPP Bylaws and Criteria ~~as approved by the SPP Board of Directors~~ or pursuant to the SPP transmission tariff OATT.

### 3.15.3 Indemnification of Directors, Officers, Agents and Employees

Except for actions which are unlawful, undertaken in bad faith, or are the result of gross negligence or willful misconduct, SPP shall indemnify its directors, officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with these Bylaws. Each director, officer, agent, employee, or other representative of SPP shall be indemnified by SPP against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which the incumbent may be made a party by reason of acting or having acted in official capacity as a director, officer, agent, employee, or representative of SPP, or in any other capacity which the incumbent may hold at the request of SPP, as its representative in any other organization, subject to the following conditions:

- a. ~~a.~~—Such director, officer, agent, employee, or other representative must have acted in good faith and, in the case of criminal proceedings, must have had no reasonable cause to believe that conduct was unlawful; provided, that SPP shall not provide indemnification of any conduct judged unlawful in criminal proceedings. When acting in official capacity, the incumbent must have reasonably believed that conduct was in the best interests of SPP, and, when acting in any other capacity, must have reasonably believed that conduct was at least not opposed to the best



interests of ~~the~~ SPP.

- ~~b.~~ **b.**——If the proceeding was brought by or on behalf of ~~the~~ SPP, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the director, officer, agent, employee, or other representative shall have been adjudged liable to SPP.
- ~~c.~~ **c.**——In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a director, officer, agent, employee, or other representative and where liability is imposed on the basis of the receipt of such improper personal benefit.
- ~~d.~~ **d.**——In order for any director, agent, employee, or other representative to receive indemnification under this provision, the person shall vigorously assert and pursue any and all defenses to those claims, charges, or proceedings covered herein which are reasonable and legally available and shall fully cooperate with SPP or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of SPP.
- ~~e.~~ **e.**——No indemnification shall be made in any specific instance until it has been determined by SPP that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the Board of [Directors](#) consisting solely of directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full Board of [Directors](#), including directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of SPP.
- ~~f.~~ **f.**——Any reasonable expenses, as shall be determined above, that have been incurred by a director, officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in advance upon a majority vote of a quorum of the full Board of Directors, including those who may be a party to the same proceeding. However, such director, officer, agent, employee, or other representative shall have provided SPP with (i) a written affirmation under oath that the incumbent, in good faith, believes the conditions of indemnification herein have been met, ~~;~~ and (ii) a written undertaking that the incumbent shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is ultimately determined that such conditions are not met. ~~In addition to the indemnification and reimbursement of expenses provided herein, the President shall, if reasonably practical, purchase insurance that would protect the SPP, its directors, officers, agents, employees, or other representatives against reasonably expected liabilities and expenses arising out of the performance of their duties for the SPP.~~

#### 3.15.4 Limitations



The provisions of this section [3.15](#) are subject to applicable state and federal laws, if any, which limit the ability of a Member to waive liability or enter into agreements of indemnity. Any benefits under this ~~section~~ [Section 3.15](#) shall not extend to any Member so limited by state or federal law in complying with the provisions thereof.

### 3.16 Compliance Monitoring

Compliance monitoring of Members and Staff shall be performed to ensure compliance with all requirements of Membership. SPP compliance monitoring functions shall be performed in concert with related NERC programs. Compliance monitoring shall be an after-the-fact investigative and assessment function. Compliance monitoring functions shall be provided by SPP Staff, independent and separate from ~~security-reliability~~ coordination and tariff administration functions.

Compliance monitoring functions shall include but are not limited to:

- a. ~~a.~~ Investigation of all reports or discoveries of non-compliance with approved ~~SPP~~ Bylaws, Criteria, ~~Transmission Tariff~~ [OATT](#), agreements between SPP and its Members, and NERC policies and standards;
- b. ~~b.~~ ~~Access to~~ [Obtaining](#) all information needed to investigate all facets of possible non-compliance;
- c. ~~c.~~ Performance of in-depth reviews of operations upon approval from the Compliance ~~Working Group~~ [Committee](#);
- d. ~~d.~~ Comprehensive compliance audits when recurring issues covering a broad spectrum of violations are determined and documented;
- e. ~~e.~~ Imposition of financial penalties and/or sanctions for non-compliance pursuant to approved ~~Standards~~ [standards](#), ~~Policies~~ [policies](#) and/or Criteria;
- f. ~~f.~~ ~~Monitoring the behavior of transmission owners and users and generators to determine if there are any attempts to create transmission constraints to exclude competitors or any other behavior that undermines the provision of transmission service,~~ [Ensure that SPP is conforming to its own Criteria, OATT, business practices, and reliability operations in a manner that does not stifle the efficiency of the energy markets;](#)
- g. ~~g.~~ Utilization of dispute resolution procedures as necessary to resolve conflicts;
- h. ~~h.~~ Coordination of policy modifications to clearly define requirements, standards, and penalties in order to objectively monitor compliance.

### 3.17 Market Monitoring

[SPP shall establish and provide appropriate support to a market monitoring function through an independent contractor possessing the requisite experience and qualifications. Market monitoring functions shall be carried out in a manner consistent with the safe and reliable operation of the SPP](#)

transmission system, the operation of a robust, competitive and non-discriminatory electric power market, and the principle that a Member or group of Members shall not have undue influence or impact.

The market monitoring entity shall be selected by and report to the Board of Directors. Any reports submitted shall be concurrently provided to the Board of Directors and the appropriate regulatory body or bodies. The President shall ensure that the market monitoring entity has adequate resources, access to information, and the full cooperation of Staff and Organizational Groups for the effective execution of its duties.

Market monitoring functions shall include but are not limited to:

- a. Monitoring and reporting on compliance and market power issues relating to transmission services, including compliance and market power issues involving congestion management and ancillary services and the potential of any market participant(s) to exercise market power within the region by affecting available transmission capacity;
- b. Evaluation and recommendation of any required modifications to the OATT, standards or Criteria;
- c. Ensuring that the monitoring program is conducted in an independent and objective manner;
- d. Development of reporting procedures to inform governmental agencies and others concerning market monitoring activities;
- e. Monitoring the behavior of market participants to determine whether there is any behavior that hinders the reliable, efficient and non-discriminatory provision of transmission service by SPP;
- f. Ensuring that SPP's involvement in markets does not discriminate in favor of any market participant or its own interests; and
- g. Developing plans for mitigating market power, subject to appropriate regulatory approval.

## **4.0 BOARD OF DIRECTORS**

### **4.1 Duties**

The Board of Directors shall at all times act in the best interest of SPP in its management, control and direction of the general business of SPP. The Board of Directors shall solicit and consider a straw vote from the Members Committee as an indication of the level of consensus among Members in advance of taking any actions other than those occurring in executive session. ~~and its~~ Its duties shall include, but are not limited to the following:

- a. ~~a.~~ Direct activities of all SPP Organizational Groups;
- b. Serve on SPP Organizational Groups;
- c. Remove Members, and approve the re-entry of Members that have been removed;
- d. Authorize all major contracts and debt instruments;
- e. ~~b.~~ Select and review the performance of SPP President and Corporate Secretary Officers,

who shall serve at the pleasure of the Board of Directors;<sup>7</sup>

- f. ~~c.~~ Determine positions, duties, qualifications, salaries, benefits and other necessary matters pertaining to the SPP Staff;<sup>7</sup>
- g. ~~d.~~ Review, approve, disapprove or recommend revision to the actions of any ~~committee, working group, Organizational Group or task force;~~<sup>7</sup>
- h. ~~e.~~ Act on appeals pursuant to Section 3.10;<sup>7</sup>
- i. ~~f.~~ Approve or revise the ~~annual operating and capital~~ budgets and any additional expenditures;<sup>7</sup>
- j. ~~g.~~ Convene a ~~Meeting meeting~~ of Members at least annually ~~and additionally as necessary;~~<sup>7</sup>
- k. ~~h.~~ Approve amendments to these ~~b~~Bylaws;<sup>7</sup>
- l. Approve amendments to the Membership Agreement;
- m. ~~i.~~ Approve ~~SPP~~Criteria ~~containing pertaining to~~ planning and operating standards and policies and penalties for non-compliance with such Criteria;<sup>7</sup> and
- n. ~~j.~~ Authorize filings with regulatory bodies.

## 4.2 Composition and Qualifications

### 4.2.1 Composition

~~Provided that Membership is sufficient to accommodate these provisions, the~~ The Board of Directors shall consist of ~~21~~ seven persons. ~~Seven directors shall be representatives of Transmission Owning Members, seven directors shall be representatives of Transmission Using Members, and seven~~ The seven directors shall be independent of any Member; one director shall be the President of SPP. A Director shall not be limited in the number of terms he/she may serve. ~~Within the Transmission Owning sector, at least two directors shall be representatives of non-investor owned utilities. Within the Transmission Using Member sector, 2 directors shall be representatives of municipal Members (including municipal joint action agencies), 2 directors shall be representatives of cooperative Members and 3 directors shall be representatives of marketer and/or independent power producer and/or other Members. The President shall serve as one of the seven independent directors; provided, that the~~ The President shall be excluded from voting on business related to the office of President or the incumbent of that office. No other Staff member shall be permitted to serve as a director. ~~If Membership is insufficient to accommodate these provisions the Nominating Task Force shall make appropriate recommendations to the Membership; provided, that in no instance shall the number of directors in each sector be unequal.~~

### 4.2.2 Qualifications

~~A Member director shall be an officer or employee of a Member with decision-making responsibility over~~

~~SPP related activities, and must be the Member's representative to the Membership. Independent directors~~ Directors shall have recent and relevant senior management expertise and experience in one or more of the following ~~utility profession~~ disciplines: finance, accounting, electric transmission or generation planning or operation, law and regulation, commercial markets, and trading and associated risk management. ~~Independent directors~~

#### 4.2.3 Conflicts of Interest

Directors shall not be a director, officer, or employee of, and shall have no direct business relationship, financial interest in, or other affiliation with, a Member or customer of services provided by SPP.

~~Independent directors~~ Directors may indirectly own ~~any~~ securities through a mutual fund or similar arrangement (other than a fund or arrangement specifically targeted towards the electric industry or any segments thereof) under which the director does not control the purchase or sale of such securities. Participation in a pension plan of a Member or customer shall not be deemed to be a direct financial benefit if the Member's or customer's financial performance has no material effect on such pension plan.

#### **4.3 Term and Election**

Except for the President, ~~a~~ directors shall be elected ~~each year~~ at the ~~Meeting~~ meeting of Members to ~~staggered~~ a three-year ~~three-year~~ terms commencing upon election and continuing until ~~their~~ his/her duly elected successor ~~s~~ takes office. Initial staggering of terms will be decided by lottery ~~within each sector.~~ with two directors' terms to expire in the first year, two in the second year, and two in the third year. The election process shall be as follows:

- ~~a. At least three months prior to the Meeting of Members when election of new directors is required, the Chair of the Board of Directors shall appoint a Nominating Task Force of six representatives consisting of three representatives from each Membership sector of the Board of Directors,~~
- a. b. At least three months prior to the meeting of Members when election of new directors is required, The the Nominating Corporate Governance Task Force Committee shall commence the process to nominate persons equal in number to the directors to be elected, ~~with representatives nominating persons solely for their respective Membership sector, and all six representatives nominating persons for the independent sector;~~
- b. c. At least one month prior to the Meeting ~~meeting~~ of Members, the Nominating Corporate Governance Task Force Committee shall notify the President in writing of the persons it nominates for election as directors, specifying the nominee for any vacancy to be filled. The President shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least two weeks prior to the ~~Meeting~~ meeting of Members;
- c. d. For purposes of electing or removing directors only, all ~~each group of~~ Members with Affiliate Relationships shall be ~~limited to a single vote~~ considered a single Member; ~~within a single Membership category. These Affiliate Relationship Members are free to specify the Membership~~

~~category in which to cast their vote in cases where Membership is held in both Membership categories and such election shall remain in effect for three years,~~

- d. ~~e.~~ — At the ~~Meeting~~meeting of Members, any additional nominee or nominees may be added to the ballot if a motion is made and seconded ~~by Members from within the Membership category to add such nominee or nominees, or if from the entire Membership to add a nominee for an independent director,~~ and
- e. ~~f.~~ — At the ~~Meeting~~meeting of Members, the required number of directors shall be elected by written ballot. ~~Each Member shall be entitled to vote for each nominee of its choice from within its Membership category and for each independent nominee of its choice, but not for more nominees than the number of directors to be elected in each such category. The Member candidates receiving the most votes within each Membership category will fill Member director vacancies.~~ Each sector of the Membership votes separately with the result for that sector being a percent of approving votes to the total number of Members voting. Each Member shall be entitled to cast a number of votes equal to the number of directors to be elected. A Member may not cumulate votes. The ~~six independent~~ candidates receiving the highest percent of the average of approving vote ratios within each Membership ~~category~~sector will fill ~~independent director~~ vacancies.

#### 4.4 Resignation and Removal of Directors

Any director may resign by written notice to the President noting the effective date of the resignation. ~~If the resignation notice does not include an effective date, the resignation shall take effect upon receipt of the notice by the President.~~ The Membership may remove a director with cause, by ~~the vote of a majority of each Membership sector at a meeting of Members~~an affirmative vote taken in the same manner as the director was elected. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special ~~Meeting~~meeting of Members or at the next regular ~~Meeting~~meeting of Members. A director ~~who is the subject of removal proceedings sought to be removed~~ shall be given fifteen days to respond to the Member petition in writing to the President.

#### 4.5 Vacancies

If a vacancy occurs, the Corporate Governance Committee will present to the Board of Directors for consideration and election ~~will elect~~ an interim director ~~representing the same Membership category~~ to serve until a replacement director is elected and takes office. A special election shall be held at the next ~~Meeting~~meeting of Members to fill the vacancy for the unexpired term. The replacement director shall take office immediately following the election.

#### 4.6 Functioning of the Board of Directors

In reaching any decision and in considering the recommendations of any Organizational Group or task force, the Board of Directors shall abide by the principles in ~~the SPP Articles of Incorporation and~~ these Bylaws.

#### 4.6.1 Meetings and Notice of Meetings

The Board of Directors shall meet at least three times ~~annually~~ per calendar year and additionally upon the call of the Chair or upon concurrence of at least ~~seven~~ four directors. At least fifteen days' written notice shall be given to each director by the President of the date, time, place and purposes of a meeting of the Board of Directors, unless such notice is waived by the Board of Directors. ~~Telephone conference meetings may be called as appropriate by the Chair with at least one day~~ one-day prior notice. Board of Directors' meetings shall include the Members Committee and a representative from the Regional State Committee (as defined in Section 5.2) for all meetings except when in executive session. The Chair shall grant any Member's request to address the Board of Directors.

#### 4.6.2 Chair and Vice Chair; Election and Terms

The Board of Directors shall elect from its membership a Chair and ~~a~~ Vice Chair for ~~two-year~~ two-year terms, commencing upon election and continuing until their ~~duly-elected~~ duly elected successors take office or until their term as a director expires without re-election. The President of SPP may not serve as the Chairman of the Board of Directors. The Vice Chair shall act for the Chair:

- a. \_\_\_\_\_ ~~at~~ the request of the Chair; ~~or~~
- b. \_\_\_\_\_ in the event the Chair should become incapacitated and unable to discharge the functions of the office; or
- c. \_\_\_\_\_ if the office of Chair becomes vacant, until the next regularly scheduled meeting of the Board of Directors, at which meeting a new Chair shall be elected by the Board of Directors to fill the vacancy. The Chair ~~shall~~ appoint a director to fill a vacant Vice Chair position until the next meeting of the Board of Directors, at which meeting a new Vice Chair shall be elected by the Board of Directors to fill the vacancy.

#### 4.6.3 Quorum and Voting

~~Two-thirds~~ Five of the directors shall constitute a quorum of the Board of Directors; provided, that a lesser number may adjourn the meeting to a later time. Decisions of the Board of Directors shall be by ~~two-thirds~~ simple majority vote of the directors present ~~or represented by proxy~~ and voting. Directors must be present at a meeting to vote; no votes by proxy are permitted. Voting will be by secret ballot. The Secretary will collect and tally the ballots, and announce the results of a vote. Only voting results will be announced and recorded in the minutes; individual votes will not be announced or recorded. ~~To facilitate timely administration, voting by mail may be used for actions outside of regular or called meetings. Voting by mail will occur only at the direction of the Chair and the action must have a motion and second by~~

~~Members of the Board of Directors. Voting by mail will be expeditiously administered by the Staff Secretary by any widely available means. The outcome of votes taken by mail will be reported at the next meeting of the Board of Directors and recorded in the meeting minutes.~~

#### 4.6.4 Compensation of ~~Independent~~ Directors

~~Independent directors~~ Directors shall receive compensation as recommended by the Human Resources Committee, and approved ~~established~~ by the Membership, and shall be reimbursed for actual expenses reasonably incurred or accrued in the performance of their duties.

#### 4.6.5 Executive Session

Executive sessions (~~closed to all but~~ open only to directors and to parties invited by the Chair) shall be held as necessary upon agreement of the Board of Directors to safeguard confidentiality of sensitive information regarding employee, financial, or legal matters.

### 5.0 COMMITTEES ADVISING THE BOARD OF DIRECTORS

#### 5.1 Members Committee

The Members Committee shall work with the Board of Directors to manage and direct the general business of SPP. Its duties shall include, but are not limited to the following:

- a. Provide individual and collective input to the Board of Directors, including but not limited to a straw vote from the Members Committee representatives as an indication of the level of consensus among Members, on all actions pending before the Board of Directors; and
- b. Serve on committees reporting to the Board of Directors as appointed by the Board of Directors.

#### 5.1.1 Composition and Qualifications

##### 5.1.1.1 Composition

Provided that Membership is sufficient to accommodate these provisions, the Members Committee shall consist of 14 persons. Seven representatives shall be representatives of and elected by Transmission Owing Members; seven representatives shall be representatives of and elected by Transmission Using Members. Within the Transmission Owing Member sector, at least two representatives shall be representatives of non-investor owned utilities. Within the Transmission Using Member sector, two representatives shall be representatives of municipal Members (including municipal joint action agencies), two representatives shall be representatives of cooperative Members, and three representatives shall be representatives of marketer and/or independent power producer and/or other Members. If Membership is insufficient to accommodate these provisions the Corporate Governance Committee shall make appropriate recommendations to the Membership; provided, that in no instance shall the number of representatives in the categories be unequal.

### 5.1.1.2 Qualifications

A representative shall be an officer or employee of a Member with decision-making responsibility over SPP related activities, and must be the Member's representative to the Membership.

### 5.1.2 Term and Election

Representatives shall be elected each year at the meeting of Members to staggered three-year terms commencing upon election and continuing until their duly elected successors take office. Initial staggering of terms will be decided by lottery. The election process shall be as follows:

- a. At least three months prior to the meeting of Members at which election of new representatives is required, the Corporate Governance Committee shall nominate persons equal in number to the representatives to be elected;
- b. At least one month prior to the meeting of Members, the Corporate Governance Committee shall notify the President in writing of the persons it nominates for election as representatives, specifying the nominee for any vacancy to be filled. The President shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least two weeks prior to the meeting of Members;
- c. For purposes of electing and removing directors only, each group of Members with Affiliate Relationships shall be considered a single vote;
- d. At the meeting of Members, any additional nominee or nominees may be added to the ballot if a motion is made and seconded from within the Membership sector to add such nominee or nominees; and
- e. At the meeting of Members, the required number of representatives shall be elected by written ballot. Members will vote only in their designated membership sectors and each Member shall be entitled to cast a number of votes equal to the number of representatives to be elected in the Member's Membership sector. A Member may not cumulate votes. The candidates in each Membership sector receiving the greatest number of votes will fill vacancies.

### 5.1.3 Resignation and Removal of Members Committee Representatives

Any representative may resign by written notice to the President noting the effective date of the resignation. A Membership sector may remove any representative of its sector, with cause, by the affirmative vote of a majority of the Membership sector at a meeting of Members. Removal proceedings may only be initiated by a petition signed by not less than twenty percent of the Members within the relevant Membership sector. The petition shall state the specific grounds for removal and shall specify whether the removal vote is to be taken at a special meeting of Members or at the next regular meeting of Members. A representative who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.



#### 5.1.4 Vacancies

If a vacancy occurs the Members Committee may elect an interim representative from the same sector to serve until a replacement representative from the same sector is elected and takes office. A special election shall be held at the next meeting of Members to fill the vacancy for the unexpired term. The replacement representative shall take office immediately following the election.

#### 5.1.5 Meetings

The Members Committee shall meet only with the Board of Directors.

### 5.2 Regulatory Involvement and Regional State Committee

Any regulatory agency having jurisdiction over a Member may participate in all SPP activities. These representatives shall have all rights as Members except the right to vote. Participation includes the naming of representatives by each of the jurisdictions to participate in Board of Directors meetings and any or all other Organizational Groups. A Regional State Committee (RSC), comprised of the chairs of each retail regulatory agency, or their designees, along with representatives from any other public interest agencies that the states deem appropriate will be established. The purpose of the RSC is to provide collective input into SPP's decision-making processes at Board of Directors meetings and meetings of any other Organizational Groups. Actions of the RSC are intended to include collection of information, monitoring of events, considering proposals, developing proposals, evaluating capacity adequacy, and/or any other activities related to the operation and functions of SPP, which affect retail regulatory agency responsibilities for reliability, safety, siting and reasonably priced electric service. Staff will, as requested, facilitate activities of the RSC. SPP will fund the activities of the RSC pursuant to an annual budget developed and approved by the RSC and submitted to SPP.

### ~~56.0 ORGANIZATIONAL GROUPS~~COMMITTEES REPORTING TO THE BOARD OF DIRECTORS

This section describes the general scopes and responsibilities of the Organizational Groups reporting directly to the Board of Directors ~~and their general scope responsibilities~~. Nothing in this section is meant to limit the se responsibilities or activities ~~of these Organizational Groups~~ in their efforts to fulfill SPP's mission.

#### ~~56.1 Engineering and Operating~~ Markets and Operations Policy Committee

Each SPP Member shall appoint a representative to the Markets and Operations Policy Committee (MOPC) at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative designated shall be an officer or employee of the Member. The Board of Directors will appoint the Chair and Vice Chair of the MOPC. Each member of the MOPC may continue to be a member thereof until the appropriate Member appoints a successor.

The MOPC shall meet at least three times per calendar year, and additionally as needed, ~~provided that a quorum, as defined in these Bylaws, is present.~~ The MOPC shall report to the Board of Directors following each MOPC meeting with respect to its activities and with such recommendations, as the MOPC deems necessary.

The responsibilities of the Markets and Operations Policy Committee shall include:

- a. Recommend practices for system design, planning, adequacy, regional transmission service tariff, interconnections, and operation, reliability, market designs and efficiency, and market power mitigation -that will help to assure efficient and reliable power supply among the systems in SPP and SPP transmission customers;
- b. Continue coordination of its efforts with the efforts of NERC, including periodic review of NERC Policies and Standards and their applicability to SPP and its Members;
- c. Review Member operating plans and problems that are pertinent to SPP planning and operation;
- d. Maintain an annual series of load flow and short circuit models and associated stability data bases representing the current and planned electric network of the region, and maintain a data base of all transmission, generation, and -facilities supporting facilities within SPP;
- e. Review and assess the current and planned electric system of the region;
- f. Make use of studies available from other regions;
- g. Recommend to the Board of Directors criteria for planning, ~~and operations,~~ and to assist in the efficiency and vitality of the wholesale electricity market;
- h. ~~Review Coordinate the inter-regional and~~ intra-regional plans ~~submitted by the coordinated groups within SPP~~ and facilitate planning, information exchange, and operations between inter-regional and intra-regional groups;
- i. Develop a coordinated plan for intra-regional transmission for greater efficiency and reliability of electric power supply;
- j. Recommend to the Board of Directors and Members individual or joint action to improve the operation of the systems comprising SPP;
- k. Respond to activities as requested by the Strategic Planning Committee and the Board of Directors;
- l. Monitor the current state and evolution of the electric energy supply industry and proactively recommend commercial practices that meet industry needs and promote commerce;
- m. Work with all SPP Organizational Groups to promote a high standard of operational reliability;
- n. Continue coordination of its efforts with the efforts of North American Energy Standards Board (NAESB) and the ISO/RTO Council (IRC), including periodic review of NAESB business practices and IRC policies and their applicability to SPP and its Members;
- o. Complete a self-assessment annually to determine how effectively the MOPC is meeting its

- responsibilities; and
- p. Perform such other functions as the Board of Directors may delegate or direct.

## 6.2 Strategic Planning Committee

The Strategic Planning Committee (SPC) shall be comprised of ~~seven~~ eleven members. Two representatives shall be from the Board of Directors, one of whom will serve as the Chair, and the other as Vice Chair; the President of SPP; four representatives from the Transmission ~~Owner~~ Owning Member sector as selected by that sector of the Members Committee; and four representatives from the Non-Transmission ~~Owner~~ Using Member sector as selected by that sector of the Members Committee.

The Board of Directors and the Members Committee shall appoint the representatives of the SPC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the SPC shall continue to be a representative thereof until the Board of Directors ~~and~~ or the ~~Management~~ Members Committee, as appropriate, appoints his/her successor. Where a vacancy occurs, the ~~Board of Directors and~~ representatives from the appropriate sector ~~of the Members Committee~~ will fill the vacancy.

The SPC shall meet at least twice per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The SPC shall report to the Board of Directors following each SPC meeting with respect to its activities and with such recommendations, as the SPC deems necessary.

The responsibilities of the Strategic Planning Committee shall include:

- a. Gather information from SPP Members, customers, Staff, regulatory jurisdictions, market monitors, and legislative bodies on industry trends, forecasts and directions;
- b. Assess the industry environment in which SPP will be operating;
- c. Assess SPP's capabilities and competencies against the industry environment, including coordination with neighboring entities;
- d. Develop and recommend to the ~~SPP~~ Board of Directors a mission and vision statement and accompanying goals and objectives;
- e. Formulate strategies to ensure achievement of SPP's mission statement, goals, objectives, and responsibilities, and recommend necessary modifications to SPP processes to carry out these strategies;
- f. Work with other ~~SPP~~ Organizational Groups in developing related action plans, schedules and budgets;
- ~~g. Develop criteria governing the overall composition of the Board of Directors for recommendation to the Board of Directors;~~
- ~~h. Coordinate an annual review and assessment of the effectiveness of the Board of Directors, its structure, and process;~~

- ~~i.g.~~ ~~Develop recommendations for the Board of Directors regarding a director succession policy;~~ Review annually the structure of the Organizational Groups, and together with the Organizational Group Chairs, the charters of each Organizational Group, and recommend changes to the Board of Directors, as appropriate;
- ~~k.h.~~ Review the self-assessments of the Organizational Groups to assure that they are being done on a consistent basis;
- ~~l.i.~~ Complete a self-assessment annually to determine how effectively the SPC is meeting its responsibilities; and
- ~~m.j.~~ Perform such other functions as the Board of Directors may delegate or direct.

### ~~56.3 Employee Benefits Working Group~~ Human Resources Committee

The ~~Employee Benefits Working Group~~ Human Resources Committee (HRC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as selected by that sector of the Members Committee; and two representatives from the Transmission Using Member sector as selected by that sector of the Members Committee. ~~reports to and is subject to the control of the Board of Directors with representatives named by the Board of Directors.~~

The Board of Directors and the Members Committee shall appoint the representatives of the HRC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the HRC shall continue to be a representative thereof until the Board of Directors or the Members Committee, as appropriate, appoints his/her successor. Where a vacancy occurs with respect to a representative of a Membership sector, the representatives from the appropriate sector of the Members Committee will fill the vacancy.

The HRC shall meet at least twice per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The HRC shall report to the Board of Directors following each HRC meeting with respect to its activities and with such recommendations, as the HRC deems necessary.

The responsibilities of the Human Resources Committee shall include ~~Employee Benefits Working Group~~ assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to the oversight of:

- a. The development and administration of employee benefit programs;
- b. The effectiveness of SPP's compensation plan for employees and directors
- c. The activities of investment managers charged with managing employee benefit assets, including evaluation of performance;

- d. Approve and monitor SPP staffing structure to ensure it accomplishes organizational mission;
- e. Maintain current job description for the President and conduct annual performance evaluation;
- f. Other duties and responsibilities detailed in the Human Resources Committee charter; and
- g. Perform such other functions as the Board of Directors may delegate or direct.

- ~~a. Interpret SPP employee benefit plans for intent and ambiguity,~~
- ~~b. Resolve all questions concerning eligibility for benefits,~~
- ~~c. Compute the amount of benefits payable under the plans,~~
- ~~d. Employ persons to render advice under the plan,~~
- ~~e. Appoint trustees and define rights, powers and duties of trustees,~~
- ~~f. Evaluate performance of investment managers,~~
- ~~g. Adopt rules and regulations of the plan,~~
- ~~h. Recommend amendments to the plan,~~
- ~~i. Establish a claims procedure,~~
- ~~j. Establish and carry out funding policy,~~
- ~~k. Annually in July evaluate performance of investments,~~
- ~~l. Annually in September review the employee compensation plan, and~~
- ~~m. Make recommendations to the Board of Directors as necessary to; appoint and remove investment managers for all plans, designate portion of contribution to the plans, participate in trust agreement, direct trustee concerning payments made out of trust fund, set investment goals, employ consultants to advise on plans, amend all plans, terminate plans, and authorize participation in all plans.~~

#### **56.4 Compliance ~~Working Group~~ Committee**

The Compliance ~~Working Group~~ Committee (CC) ~~shall be comprised of three members from the Board of Directors.~~

The Board of Directors shall appoint the representatives of the CC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the CC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs, the Board of Directors will fill the vacancy.

The CC shall meet as needed, provided that a quorum, as defined in these Bylaws, is present. The CC shall report to the Board of Directors following each CC meeting with respect to its activities and with such recommendations as the CC deems necessary. ~~reports to and is subject to the control of the Board of Directors with six representatives named by the Board of Directors.~~

~~This Working Group~~ The responsibilities of the Compliance Committee shall include ~~shall oversee the process of monitoring compliance to SPP and NERC policies and shall:~~

- a. a.—Oversee the process of monitoring compliance to SPP and NERC policies;
- b. Independently review activities of the Staff;
- c. Hear and rule on appeals from Members regarding penalty assessment or fine distribution prior to dispute resolution proceedings;
- d. Recommend Criteria changes necessary for enforcement of mandatory compliance and in response to unclear enforcement provisions of Criteria;
- e. Grant specific additional authority to the Staff responsible for the compliance monitoring function when needed to perform challenging investigations;
- f. Complete a self-assessment annually to determine how effectively the CC is meeting its responsibilities; and
- g. Perform such other functions as the Board of Directors may delegate or direct.

~~Independently review activities of the Staff,~~

- ~~b. —Hear and rule on appeals from Members regarding penalty assessment or fine distribution prior to dispute resolution proceedings,~~
- ~~c. —Recommend criteria changes necessary for enforcement of mandatory compliance and in response to unclear enforcement provisions of criteria, and~~
- ~~d. —Grant specific additional authority to the Staff's compliance monitoring function when needed to perform challenging investigations.~~

#### **56.5 Finance ~~Working Group~~ Committee**

The Finance Committee (FC) shall be comprised of six members. Two representatives shall be from the Board of Directors, one of whom shall serve as the Chair; two representatives from the Transmission Owning Member sector as selected by that sector of the Members Committee; and two representatives from the Transmission Using Member sector as selected by that sector of the Members Committee.

The Board of Directors and the Members Committee shall appoint the representatives of the FC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the FC shall continue to be a representative thereof until the Board of Directors or the Members Committee, as appropriate, appoints his/her successor. Where a vacancy occurs with respect to a representative of a Membership sector, the representatives from the appropriate sector of the Members Committee will fill the vacancy.

The FC shall meet at least twice per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The FC shall report to the Board of Directors following each FC

~~meeting with respect to its activities and with such recommendations, as the FC deems necessary. The Finance Working Group reports to and is subject to the control of the Board of Directors with three representatives named by the Board of Directors.~~

~~This Working Group~~ The responsibilities of the Finance Committee shall include -shall- assistance to the Board of Directors in fulfilling its responsibility to the Members, and investment community with respect to its oversight of:

- a. The quality and integrity of SPP's financial statements;
- b. SPP's compliance with financially-based legal and regulatory requirements;
- c. The independent auditor's qualifications, selection, and independence;
- d. The performance of SPP's internal audit function and independent auditors;
- e. The development and implementation of annual and long-term operating and capital budgets;
- f. The management of risk;
- g. Develop policies for management of debt financing and for long-term contracting;
- h. Monitoring methodology for cost recovery to ensure continuing equity for Members;
- i. Other duties and responsibilities detailed in the Finance Committee charter; and
- j. Perform such other functions as the Board of Directors may delegate or direct.

~~oversee SPP finances and shall:~~

- ~~a. Review a preliminary budget prepared by the SPP Staff and recommend an annual budget for consideration of the Board of Directors;~~
- ~~b. Review quarterly statements of actual expenses versus budget and make reports to the Board of Directors;~~
- ~~c. Review the annual audit and make a report to the Board of Directors, and~~
- ~~h. d. Provide guidance to the Staff in finance decisions.~~

### 6.6 Corporate Governance Committee

The Corporate Governance Committee (CGC) shall be comprised of eight members. One representative shall be the President of SPP who will serve as the Chair; the Chairman of the Board, unless his/her position is under consideration, in which case the Vice Chairman of the Board; three representatives from the Transmission Owning Member sector as selected by that sector of the Members Committee; and three representatives from the Transmission Using Member sector as selected by that sector of the Members Committee.

The Board of Directors and the Members Committee shall appoint the representatives of the CGC at the regular meeting of the Board of Directors immediately following each annual meeting of Members. Each representative of the CGC shall continue to be a representative thereof until the Board of Directors or the

Members Committee, as appropriate, appoints his/her successor. Where a vacancy occurs with respect to a representative of a Membership sector, the representatives from the appropriate sector of the Members Committee will fill the vacancy.

The CGC shall meet at least once per calendar year, and additionally as needed, provided that a quorum, as defined in these Bylaws, is present. The CGC shall report to the Board of Directors following each CGC meeting with respect to its activities and with such recommendations, as the CGC deems necessary.

The responsibilities of the Corporate Governance Committee shall include:

- a. Seek input from the Board of Directors and the Members Committee as to the skills needed to fill any vacancy under consideration;
- b. Recommend to the Members candidates for election to the Board of Directors;
- c. Monitor the composition of the Board of Directors to ensure balance, independence, maintenance of qualifications under any applicable laws, avoidance of conflict of interest, and periodic review of the criteria for independence set out in the Bylaws and appropriate regulatory bodies, recommending changes, as appropriate;
- d. Recommend to the Board of Directors the appointment of Organizational Group representatives and leadership except for the Members Committee, whose representatives are elected by the Members, and the Operations Policy Committee, whose representatives are appointed by the Members;
- e. Develop criteria governing the overall composition of the Board of Directors for recommendation to the Board of Directors;
- f. Coordinate an annual review and assessment of the effectiveness of the Board of Directors, its structure, and process;
- g. Develop recommendations for the Board of Directors regarding a director succession policy;
- h. Complete a self-assessment annually to determine how effectively the CGC is meeting its responsibilities; and
- i. Perform such other functions as the Board of Directors may delegate or direct.

## **67.0 NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL**

SPP participates as a regional reliability organization in NERC activities. The Board of Directors shall appoint representatives to NERC organizational groups as necessary. SPP may pay associated travel expenses of these representatives upon receipt by the President of an expense report as normally filed within the representative's system.

## **8.0 FISCAL ADMINISTRATION**

The fiscal year shall coincide with the calendar year.



### 8.1 Operating Budget

SPP Staff and the Finance Committee will prepare an annual budget of expenditures for the next fiscal year and an estimate for an additional two years. The proposed budget shall be submitted to the Board of Directors not less than two weeks prior to the meeting at which the budget is to be considered for approval. Once approved by the Board of Directors, the budget shall constitute the authority required ~~for~~ by the Officers for expenditures for the ensuing year. Modifications to the budget during the fiscal year must be recommended to the Board of Directors by the Finance Committee. The President shall have the authority to approve unbudgeted expenditures of up to \$250,000 individually or in the aggregate during the fiscal year. The President may approve unbudgeted expenditures in excess of \$250,000 but less than \$1,000,000 with the concurrence of the Finance Committee. Unbudgeted expenditures in excess of \$1,000,000 require prior approval of the Board of Directors.

### 8.2 Annual Membership Fee

All SPP Members will be subject to an annual membership fee to recover the costs incurred by SPP related to maintaining reliability criteria and related compliance. Members without "Net Energy for Load" within SPP will pay an annual membership fee of \$6,000, or ~~as otherwise~~ other amount established by the Board of Directors. The Board of Directors shall determine the annual membership fee for the upcoming year in advance of the last meeting of Members in a calendar year. Those Members serving load will be subject to a fee based on their annual Net Energy for Load within SPP for the preceding year. Membership fees are not subject to refund.

### 8.3 NERC Assessment

The NERC assessment is to be a direct pass-through and will be charged to ~~the Membership~~ Members per the assessment formula outlined below at the time SPP is invoiced by NERC:

$$A = [0.25(1/N) + 0.75(B/C)] X$$

Where: A = Member's share of NERC assessment  
 N = Total number of Members  
 B = The Member's previous year Net Energy for Load within SPP  
 C = Total of factor B for all Members  
 X = Actual NERC assessment to SPP

### 8.4 Monthly Assessments

SPP will assess certain Members described herein on a monthly basis all costs not otherwise collected ~~via~~ a monthly assessment. Costs recovered under the assessment will include but are not limited to all operating costs, financing costs, debt repayment, and capital expenditures associated with the performance of SPP's functions as assigned by the Board of Directors. Significant among these are costs

associated with regional ~~security~~-reliability coordination and the provision of transmission service. SPP shall determine the assessment rate based on its annual budgeted net expenditures divided by estimated annual Schedule 1-A billing units for service sold under SPP's OATT and Member load eligible to take, but not taking, Network Integration Transmission Service under SPP's OATT. The Board of Directors may review the assumptions used in determining the assessment rate at any time and may adjust the assessment rate appropriately should conditions warrant. Each load-serving Member shall then be assessed the monthly assessment rate applied to its load eligible to take Network Integration Transmission Service under the SPP OATT. Further, each load-serving Member shall receive a credit against the monthly assessment for that month's Schedule 1-A fees paid for Network Integration Transmission Service and for Point-to-Point Transmission Service that had a delivery point within the SPP region, under the SPP OATT.

### 8.5 Fiscal Agent

The President shall serve as the fiscal agent of SPP. The President shall keep an up-to-date record of receipts and disbursements and furnish reports to the Board of Directors and the Finance Committee.

### 8.6 Auditors

The Board of Directors shall annually engage an independent certified public accounting firm to perform an annual audit of SPP's financial records and prepare a report on the financial condition of SPP. The Finance Committee shall present the audit report to the Board of Directors upon completion.

### 8.7 Financial Obligation of Withdrawing Members

For purposes of computing the "existing obligations" of any withdrawing or terminated Member in accordance with the Membership Agreement, such "Member's share" is a percentage calculated as follows:

$$A = 100 [0.25(1/N) + 0.75(B/C)]$$

Where: A = Member's share (expressed as a percentage)

N = Total number of Members

B = The Member's previous year Net Energy for Load within SPP

C = Total of factor B for all Members

The Finance Committee shall have the discretion to reduce the "existing obligations" of any withdrawing or terminated Member, to reflect any SPP costs or expenses that may be mitigated in connection with such Member's withdrawal or termination.

## **89.0 AMENDMENTS TO THESE BYLAWS, THE ARTICLES OF INCORPORATION, AND MEMBERSHIP AGREEMENT**

Except for modifications to Section 4.0, ~~BOARD OF DIRECTORS~~, Section 5.0 COMMITTEES ADVISING THE BOARD OF DIRECTORS, and Section 9.0 AMENDMENTS, these Bylaws may be amended, repealed, or added to by the Board of Directors only upon 30 days written notice to the Membership of the proposed modification(s). ~~in the same manner as any other business before the SPP organizational structure, culminating with approval~~ Approval of amendments to the Bylaws by the Board of Directors must be by an affirmative vote of at least five directors. Sections 4.0, 5.0, and 9.0 of these Bylaws and the Articles of Incorporation may be amended, repealed, or added to only by approval of the Membership. All amendments are subject to the requisite regulatory approval(s).

#### **910.0 EFFECTIVE DATE AND TRANSITION PROVISIONS**

These Bylaws shall become effective ~~February 19, 2002~~ [DATE] and remain in force thereafter as may be amended. These Bylaws hereby cancel and supersede SPP Bylaws dated ~~January 1, 2000~~ February 19, 2002; provided, that these Bylaws do not relieve any Member from any financial obligation incurred thereunder. Binding obligations entered into by authority of ~~officers~~ Officers or the Board of Directors under these Bylaws are hereby assumed and confirmed as obligations of SPP under these Bylaws.

# **SOUTHWEST POWER POOL**

# **MEMBERSHIP AGREEMENT**

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# Southwest Power Pool Membership Agreement

This Agreement is made between ~~and among~~ the Members and SPP, as defined herein.

## 1.0 Definitions

### 1.1 Agreement

This Membership Agreement.

### 1.2 Board of Directors

The Board of Directors elected ~~consistent with~~ pursuant to the ~~SPP~~ Bylaws.

### 1.3 Bylaws

SPP's Bylaws or any successor document.

### 1.4 Distribution Facilities

~~Facilities which~~ Facilities that are the subject of a separate distribution charge pursuant to the Open Access Transmission Tariff.

### 1.5 Effective Date

~~For each Member, this~~ This Agreement is effective on January 1, 2000 or upon the date of execution by ~~that~~ Member if after January 1, 2000.

### 1.6 Electric Transmission System

The transmission facilities subject to SPP's tariff administration, except for any Distribution Facilities.

### 1.7 FERC

The Federal Energy Regulatory Commission, or successor organization.

### 1.8 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. SPP Criteria and NERC Policies and Standards are considered Good Utility Practice.

### 1.9 Members

~~Signatories~~ Signatory to this Agreement that ~~have~~ has completed the application requirements pursuant to the Bylaws.

### 1.10 NERC

North American Electric Reliability Council or successor organizations.

### 1.11 Non-Transmission Owner

~~Those signatories which are~~ A Member that is not a Transmission Owner ~~s under this Agreement.~~ A Non-Transmission Owner that owns or controls Tariff Facilities may have its status changed to a Transmission Owner under this Agreement upon notice to SPP and execution of this Agreement as a Transmission Owner.

### 1.12 ~~Security~~ Reliability Coordinator

SPP is performing its ~~security~~ reliability coordinator function as recognized by NERC pursuant to its policies, and pursuant to SPP Criteria and ~~pursuant to~~ this Agreement.

### 1.13 SPP

Southwest Power Pool, Inc., or successor organization., ~~its officers, employees and agents.~~ ~~This definition does not include the Board of Directors.~~

### 1.14 SPP Criteria

SPP's approved operating and planning criteria.

### 1.15 SPP Region

The geographic area encompassing the transmission systems of Members that are SPP Transmission Owners.

### 1.16 Standards of Conduct

SPP's Standards of ~~Conduct which~~ Conduct that apply to the conduct of ~~independent board its~~ directors, officers, employees, and consultants on file with FERC.

### 1.17 Tariff Facilities

The Electric Transmission System ~~transmission facilities~~ and the Distribution Facilities subject to SPP's tariff administration.

### 1.18 Transmission Customer

A customer under the Open Access Transmission Tariff.

### 1.19 Transmission Owner

A signatory to this Agreement which transfers functional control related to the rates, terms and conditions of the OATT to SPP by executing this Agreement or appoints SPP under another agreement to provide service under the Transmission Tariff over Tariff Facilities which it owns or controls. ~~A signatory to this Agreement which appoints SPP as its agent to provide service under the Transmission Tariff over Tariff Facilities which it owns or controls.~~

### 1.20 Open Access Transmission Tariff (OATT)

The SPP nondiscriminatory, ~~open~~ Open-access ~~Access transmission~~ Transmission service tariff Tariff (OATT) on file with ~~the~~ FERC pursuant to Section 205 of the Federal Power Act under which SPP will offer transmission service, or any such ~~nondiscriminatory~~ successor tariff.

## 2.0 Rights, Powers And Obligations Of ~~Southwest Power Pool~~ SPP

SPP possesses the rights, powers, and obligations as detailed in this Section 2.

### 2.1 Operation and Planning

#### 2.1.1 General

- a. SPP shall ~~is authorized by the Transmission Owners pursuant to this Agreement to~~ schedule transactions and to administer transmission service over Tariff Facilities ~~as an~~

~~agent of the Transmission Owners~~ as necessary to provide service in accordance with the SPP OATT ~~Transmission Tariff~~. ~~SPP shall not operate or direct the operation of the Tariff Facilities except in its role as Security Coordinator.~~

- b. ~~b.~~ SPP shall function in accordance with Good Utility Practice and shall conform to applicable reliability criteria, policies, standards, rules, regulations, guidelines and other requirements of SPP and NERC, ~~each~~ Transmission Owner's specific reliability requirements and operating guidelines (to the extent these are not inconsistent with other requirements specified in this paragraph), and all applicable requirements of federal and state regulatory authorities.
- c. ~~c.~~ SPP shall maintain a publicly available registry of all facilities that are not classified as critical energy infrastructure information that constitute the Electric Transmission System.
- d. ~~d.~~ SPP shall review and approve, as appropriate, requests for service, ~~and~~ schedule transmission transactions, ~~and~~ ~~shall~~ determine available transfer capability under the ~~Transmission Tariff~~ OATT; ~~provided that SPP shall coordinate with affected the~~ Transmission Owners when processing requests for service involving ~~such~~ ~~Transmission Owners~~ its Tariff Facilities.
- e. ~~e.~~ SPP shall be responsible for coordinating with neighboring regional organizations and/or non-member transmission owners or providers as appropriate.
- f. ~~f.~~ SPP shall not exercise its administration of transmission service over the Tariff Facilities in such a way as to interfere with ~~rights of Transmission Owners or Transmission Customers in~~ contracts between ~~a~~ Transmission Owner and any Transmission Customer that are in effect as of the Effective Date of this Agreement except as permitted by the ~~Transmission Tariff~~ OATT.
- g. ~~g.~~ SPP shall be responsible for documenting all transmission service requests, the disposition of such requests, and any supporting data required to support the decision with respect to such requests. SPP shall negotiate as appropriate to develop reciprocal service, equitable tariff application, compensation principles, and any related arrangements.
- h. ~~h.~~ SPP shall propose and file ~~modifications~~ with FERC pursuant to Section 205 of the Federal Power Act modifications to the ~~Transmission Tariff~~ OATT and ~~to~~ make any other necessary filings subject to necessary approval by the Board of Directors ~~approval for those filings that the Board requires be brought to it for its approval pursuant to the~~

~~provisions of Section 2.2.1 and subject to reserved Transmission Owner rights pursuant to Section 3.10.~~

- ~~i. i.~~ SPP shall develop penalties and incentives, subject to FERC filings where appropriate.
- ~~j. j.~~ SPP shall direct Transmission Owners pursuant to the provisions of Section 3.3 to construct transmission facilities in accordance with coordinated planning criteria, or if necessary under the ~~Transmission Tariff~~ OATT.
- ~~k.~~ SPP shall direct the operations of the Tariff Facilities in order to carry out its responsibilities as a Transmission Provider and Reliability Coordinator; provided, however, nothing in this Agreement or the OATT shall be construed to require a change in the physical control of any Tariff Facilities using a Party's existing facilities or equipment.
- ~~l. k.~~ SPP shall take any actions necessary for it to carry out its duties and responsibilities, subject to receiving any necessary regulatory approvals and any necessary approvals ~~by~~ from the Board of Directors.

### 2.1.2 Reliability

SPP shall have responsibility for reliability of the Electric Transmission System in connection with its rights, powers, and obligations under this Agreement. SPP shall act as the ~~Security~~ Reliability Coordinator of the Electric Transmission System, and as such, shall have ~~security~~ reliability monitoring and emergency response responsibilities pursuant to related SPP Criteria and the following requirements:

- ~~a. a.~~ SPP shall monitor real-time data to determine whether any control areas are experiencing generation capacity deficiencies. If a generation capacity deficiency event threatens the security of the Electric Transmission System, SPP ~~shall be~~ is authorized to and shall direct the acquisition of generation capacity and, if that direction is not satisfied, ~~is authorized to and shall direct~~ the shedding of firm load in the deficient control area.
- ~~b. b.~~ SPP shall work with other ~~security-reliability~~ coordinators ~~and non-member transmission owners or providers~~ to develop regional ~~security-reliability~~ plans and emergency operating procedures.
- ~~c. c.~~ SPP shall maintain emergency response procedures for responding to specified critical contingencies and shall continuously analyze issues that may require the initiation of such actions.

- ~~d. d.~~ SPP is authorized to and shall direct the response to any emergency and Members shall carry out the required emergency actions as directed by SPP (except in cases involving endangerment to the safety of employees or the public), including the shedding of firm load if required for regional ~~security~~reliability.
- ~~e. e.~~ After the conclusion of an emergency condition, any affected entity that disagrees with SPP's handling of the emergency may resolve that disagreement pursuant to ~~SPP's~~ the dispute resolution procedures in the Bylaws.
- ~~f. f.~~ SPP shall monitor and coordinate the maintenance of adequate Electric Transmission System voltage levels with control areas and Transmission Owners, where appropriate.
- ~~g. g.~~ SPP shall direct redispatch of generation in accordance with the ~~Transmission Tariff~~OATT and in its role as Reliability Coordinator, subject to the generator receiving appropriate compensation pursuant to an applicable rate schedule.

### 2.1.3 Transmission Maintenance

~~Coordination with~~ SPP is required to approve ~~for~~ all planned maintenance of the Electric Transmission System ~~Tariff Facilities~~ consistent with the following requirements:

- ~~a. a.~~ SPP shall review planned transmission maintenance schedules submitted by Transmission Owners for a minimum of a rolling one-year period. These planned maintenance schedules shall be updated daily. Planned transmission maintenance requests shall be submitted to SPP at least one week in advance of an outage.
- ~~b. b.~~ SPP shall analyze ~~such a~~ planned transmission maintenance requests to determine ~~their~~its effect on available transfer capability, ancillary services, the ~~security~~reliability of the Electric Transmission System, and any other relevant effects. Within two business days of receiving a planned maintenance request, SPP shall provide a response. If SPP's response indicates that such planned transmission maintenance will have an adverse impact, Transmission Owners shall work with SPP to minimize the impact of such planned maintenance, up to and including re-scheduling the maintenance.
- ~~c. c.~~ SPP shall notify Transmission Owners of the need to change ~~previously reviewed~~previously reviewed planned transmission maintenance outages if forced transmission outages or other circumstances compromise the integrity or reliability of the Electric Transmission System. If ~~the~~ Transmission Owners ~~are~~is fully compensated for any additional costs resulting from any changes in maintenance schedules as

provided in an applicable rate schedule, ~~the Transmission Owners~~ shall revise maintenance outages to address such emergency circumstances.

- d. ~~d.~~ As part of its review process, SPP shall identify planned transmission maintenance schedules that limit available transfer capability. If requested by a Transmission Customer, SPP shall identify opportunities and associated costs for rescheduling planned maintenance to enhance available transfer capability. Transmission Owners shall be compensated for the additional costs of rescheduled maintenance as provided in ~~an applicable rate schedule~~ the SPP OATT.
- e. ~~e.~~ SPP shall be responsible for documenting all planned transmission maintenance requests, the disposition of those requests, and all data supporting the disposition of each request.
- f. ~~f.~~ SPP shall coordinate with Transmission Owners ~~to~~ to the extent practicable to implement schedules for unplanned transmission maintenance when conditions endanger the safety of employees or the public, may result in damage to facilities, or may result in the unsatisfactory operation of ~~the Transmission Owner's~~ its transmission system or any other transmission system.

#### 2.1.4 Generation Maintenance

SPP shall coordinate the maintenance of generating units as appropriate to the extent such generation maintenance directly affects the capacity or reliability of the Electric Transmission System and the generation is located in the SPP Region as follows:

- a. ~~a.~~ SPP shall review planned generating unit maintenance schedules submitted by ~~generators or~~ generation owners for a minimum of a rolling one-year period. The planned maintenance schedules shall be updated daily. SPP shall keep such information confidential.
- b. ~~b.~~ SPP shall analyze a planned generating unit maintenance schedule to determine its effect on available transfer capability, ancillary services, the ~~security~~ reliability of the Electric Transmission System, and any other relevant effects. SPP shall inform a ~~generator or~~ generation owner if its maintenance schedule is expected to have an impact on the ~~security~~ reliability of the Electric Transmission System.
- c. ~~c.~~ As part of its review process, SPP shall identify generating unit maintenance schedules that limit available transfer capability and shall identify opportunities and associated costs for rescheduling planned maintenance to enhance available transfer capability.

- d. ~~The owner of any generator~~ A generation owner that changes planned maintenance ~~as a result at the request~~ of SPP ~~review or coordination~~ pursuant to this Section 2.1.4 shall be compensated in accordance with the SPP OATT ~~fully for additional costs associated with rescheduling such planned generation maintenance in accordance with an applicable rate schedule.~~
- e. ~~e.~~ SPP shall be responsible for documenting all planned generating unit maintenance schedules, all schedule changes, and all SPP studies and services performed with respect to planned generation maintenance.

### 2.1.5 Planning Activities

- a. SPP shall engage in such planning activities, in coordination with ~~affected Transmission Owners and other~~ Members, as are necessary to fulfill its obligations under this Agreement, SPP Criteria and the ~~Transmission Tariff~~ OATT. Such planning shall conform to applicable reliability requirements of SPP, ~~the North American Electric Reliability Council~~ NERC, ~~or any successor organizations, each~~ Transmission Owner's specific reliability requirements and operating guidelines (to the extent these are not inconsistent with other requirements), and all applicable requirements of federal or state regulatory authorities. Such planning shall seek to minimize costs, consistent with the reliability and other requirements set forth in this Agreement. The division of responsibility for planning between ~~Non-Transmission Owners, Transmission Owners,~~ Member and SPP is set forth in the SPP Criteria.
- b. As part of its planning activities, SPP shall be responsible for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and to coordinate such efforts with the appropriate state authorities.

## 2.2 Non-Discriminatory Transmission Service

SPP shall offer and administer transmission service over Tariff Facilities as specified in the ~~Transmission Tariff~~ OATT.

### 2.2.1 Pricing

In connection with its administration of the ~~Transmission Tariff~~ OATT, SPP on behalf of its Members may propose to ~~the~~ FERC such transmission pricing for transmission service as is necessary to fulfill its obligations under this Agreement, and may propose to ~~the~~ FERC such

changes in prices, pricing methods, terms, and conditions as are necessary to continue to fulfill such obligations. ~~The~~ Board of Directors ~~must approve~~ ~~approval of~~ such filings ~~is required for any matters that the Board deems as appropriate for its consideration and approval~~. The ~~Transmission-Tariff~~OATT rates shall be designed and administered so as to recover full cost of service to the greatest extent practicable associated with the provision of transmission service under the ~~Transmission-Tariff~~OATT for Tariff Facilities. Notwithstanding the foregoing, ~~each~~ Transmission Owner possesses the right to revise certain rates as provided in Section 3.10 of this Agreement.

### 2.2.2 Standards of Conduct

SPP, its ~~independent~~ directors, officers, employees, contractors, and agents shall adhere to the ~~SPP~~ Standards of Conduct.

### 2.2.3 OASIS

SPP shall administer an Open Access Same-time Information System (OASIS) or successor systems for administration of transmission service. The OASIS, or any successor system, shall conform to the requirements for such systems as specified by ~~the~~ FERC.

### 2.2.4 Ancillary Services

SPP, as part of the ~~Transmission-Tariff~~OATT, shall facilitate the provision of such ancillary services as are required to be offered by ~~the~~ FERC.

### 2.2.5 Transmission Service Scheduling

- a. ~~a.~~ SPP shall schedule and curtail transmission service in accordance with the ~~Transmission-Tariff~~OATT.
- b. ~~b.~~ SPP shall, in consultation with ~~its~~ Members, develop and from time-to-time amend when necessary, detailed scheduling protocols and procedures for service under the ~~Transmission-Tariff~~OATT, which shall be provided to all Members and be made publicly available.

## 2.3 Fiduciary Responsibilities and Duties of Southwest Power Pool to Members

SPP shall have the following fiduciary responsibilities and duties to Member under this Agreement:



- a. Using best efforts to avoid damage to the Tariff Facilities or any other facilities of the Member affected by SPP activities;
- b. Collecting and distributing revenues to Member in accordance with the Transmission Tariff and any other applicable documents;
- c. Using best efforts to maximize transmission service revenues associated with such transmission services in discounting transmission services in accordance with the Transmission Tariff; and
- d. Using best efforts to promote the design and development of Transmission Tariff rates to assure recovery by Transmission Owner of transmission revenue requirements to the greatest extent practicable and subject to receiving necessary regulatory approvals.

### **~~2.3 Responsibilities of Southwest Power Pool to Transmission Owners~~**

~~SPP shall administer transmission service and receive and distribute revenues to Transmission Owners as their agent in accordance with the Transmission Tariff and this Agreement. Notwithstanding the foregoing, SPP shall act pursuant to the direction of the Board of Directors except that neither the Board of Directors nor SPP may take any action which interferes with the following obligations:~~

- ~~a. In performing their obligations under this Agreement, SPP, and the Board of Directors shall use their individual and collective best efforts to avoid damage to the Tariff Facilities or any property of the Transmission Owners or Non-Transmission Owners affected by SPP activities.~~
- ~~b. SPP shall distribute revenues to the Transmission Owners in accordance with the Transmission Tariff.~~
- ~~c. In discounting transmission services in accordance with the Transmission Tariff, it shall be the duty of SPP to use best efforts to maximize transmission service revenues associated with such transmission services.~~

## **2.4 Additional Obligations of SPP**

### **2.4.1 Inspection and Auditing Procedures**

SPP shall grant ~~each~~ Member, ~~their~~ its employees, agents, or external auditors, and federal and state regulatory authorities having jurisdiction over SPP or ~~any~~ Member, such access to SPP's books, ~~and~~ records, business practices, control procedures and required audit test results, and related financial transactions and settlement activities as is necessary to verify compliance by SPP with this Agreement, ~~and~~ to audit and verify transactions under this Agreement, and to

assist Member in complying with its statutory and regulatory requirements. Such access shall be at reasonable times and under reasonable conditions. SPP shall also comply with the reporting requirements of federal and state regulatory authorities having jurisdiction over SPP with respect to the business aspects of its operations. Contacts between officers, employees, and agents of ~~any~~ Member and those of SPP shall comply with the Standards of Conduct.

#### 2.4.2 Stranded Cost Recovery Charges

SPP shall collect and distribute, as appropriate, any stranded cost recovery charges pursuant to applicable schedules accepted by appropriate regulatory entities.

### 3.0 Commitments, Rights, Powers, And Obligations Of ~~Transmission Owners and Non-Transmission Owners~~ Member

~~Transmission Owners and Non-Transmission Owners~~ Member ~~have~~ has made the following commitments, and shall have the following rights and shall be responsible for the following functions, some of which apply only to a Transmission Owners, some only to a Non-Transmission Owners, ~~and some to both~~. ~~In order to be considered as a Transmission Owner under this Agreement, each Member intended to be a Transmission Owner shall identify itself as a Transmission Owner when executing this Agreement. A non-Transmission Owner under this Agreement owning or controlling Tariff Facilities may have its status changed to a Transmission Owner under this Agreement upon notice to SPP and execution of this Agreement as a Transmission Owner.~~

- ~~a. Each~~ Transmission Owner shall transfer functional control related to the rates, terms and conditions of the OATT of its Transmission Facilities, subject to receiving all necessary regulatory authorizations, thereby allowing SPP to (i) direct the operation of the Transmission Facilities in accordance with the terms of this Agreement and (ii) to administer transmission service under the Transmission Tariff over that Transmission Owner's Tariff Facilities; ~~Transmission Owner authorizes SPP to act as its agent (i) in providing transmission service under the Transmission Tariff over that Transmission Owner's Tariff Facilities;~~ and (ii) in receiving funds from Transmission Customers relating to transmission service over Tariff Facilities and in distributing funds to it.
- ~~a. b. Transmission Owners and Non-Transmission Owners~~ Where Member, if they owns generators within the SPP Region which directly affect the capacity or reliability of the Electric Transmission System, it shall offer to provide the ancillary services required

under the ~~Transmission Tariff~~ OATT at rates approved by regulatory authorities, where appropriate, to the extent such generators are able to provide such ancillary services.

~~b. e.~~ Transmission Owners shall operate and maintain ~~their~~ its Tariff Facilities subject to the requirements of this Agreement.

~~c. d.~~ ~~Where~~ Transmission Owners ~~that are~~ is a control area operators, ~~it~~ shall continue to operate ~~their~~ its control areas for local generation control and economic dispatch, and shall be responsible for identifying and addressing local problems in a ~~secure and~~ reliable manner.

~~d. e.~~ Transmission Owners shall provide transmission service over ~~their~~ its Tariff Facilities at the direction of SPP pursuant to the terms of the ~~Transmission Tariff~~ OATT.

~~e. f.~~ Members agrees to comply with the instructions of SPP in its role as ~~Security~~ Reliability Coordinator.

~~f. g.~~ Transmission Owners shall retain all rights of ownership, including legal and equitable title in ~~their~~ its Tariff Facilities, subject to the provisions of this Agreement. Transmission Owner, or one acting under its authority, shall retain all rights ~~Nothing in this Agreement shall be deemed to restrict or prohibit~~ access to ~~their~~ its Tariff Facilities ~~by the Transmission Owners, or those acting under their authority~~ so long as such access is, consistent with the provisions of this Agreement.

~~g. h.~~ Notwithstanding any other provision in this Agreement, ~~no~~ Transmission Owner shall not be obligated or be considered as allowing transmission over its facilities if such transmission would cause the loss of the ~~tax exempt~~ tax-exempt status of ~~any~~ Transmission Owner or any bonds or other debt of ~~a~~ Transmission Owner.

### 3.1 Redispatch, and Curtailment

~~Each~~ Where Member ~~which~~ owns or controls generation, it shall follow the ~~directions~~ instructions of SPP in its role as ~~Security~~ Reliability Coordinator, in redispatching generation if such generation directly affects the reliability and capability of the Electric Transmission System and ~~if it~~ is located within the SPP Region. ~~Each~~ Member ~~also~~ shall follow the ~~directions~~ instructions of SPP in its role as Reliability Coordinator or as administrator of the OATT to effectuate curtailment of load, ~~if so directed by SPP, its role as Security Coordinator or as administrator of the Transmission Tariff~~. Members shall submit to and coordinate with SPP unit schedules and must-run units within the SPP Region that affect Electric Transmission System capability or reliability. Where Members is providing ~~such~~ redispatch it shall receive appropriate

compensation in accordance with appropriate rate schedules ~~and market conditions, if applicable.~~

### 3.2 Transmission and Generation Maintenance Practices

~~Each~~ Transmission Owner shall maintain its Tariff Facilities in accordance with Good Utility Practice. ~~Each~~ Member shall maintain its generation facilities subject to this Agreement in accordance with Good Utility Practice. Transmission Owners shall coordinate and obtain SPP approval for maintenance on ~~their-its~~ Tariff Facilities in accordance with Section 2.1.3 of this Agreement. Where Members ~~owning-owns~~ or ~~controlling-controls~~ generation facilities within the SPP Region directly affecting Electric Transmission System capability or reliability, it shall coordinate maintenance of such facilities with SPP in accordance with Section 2.1.4 of this Agreement.

### 3.3 Construction

- a. a. ~~Each~~ As part of its planning activities, SPP shall be responsible for planning, and for directing or arranging, necessary transmission expansions, additions, and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and to coordinate such efforts with the appropriate state authorities. Transmission Owner shall use due diligence to construct transmission facilities as directed by SPP in accordance with the ~~Transmission Tariff~~ OATT and this Agreement, subject to such siting, permitting, and environmental constraints as may be imposed by state, local and federal laws and regulations, and subject to the receipt of any necessary federal or state regulatory approvals. Such construction shall be performed in accordance with Good Utility Practice, applicable SPP Criteria, industry standards, ~~each~~ Transmission Owner's specific reliability requirements and operating guidelines (to the extent these are not inconsistent with other requirements), and in accordance with all applicable requirements of federal or state regulatory authorities. ~~Each~~ Transmission Owner shall be fully compensated to the greatest extent permitted by FERC, or other regulatory authority for the costs of construction undertaken ~~by such Transmission Owner~~ in accordance with the ~~Transmission Tariff~~ OATT.
- b. b. ~~After a new transmission project has received the required approvals and~~ been approved by SPP, SPP will direct the appropriate Transmission Owner(s) to begin implementation of the project. If the project forms a connection between facilities of a single Transmission Owner, that Transmission Owner will be designated to provide the

new facilities. If the project forms a connection between facilities owned by ~~two different~~multiple parties~~Transmission Owners or between a new facility and the facilities of a Transmission Owner, both entities~~all parties will be designated to provide ~~the~~their respective new facilities. The ~~two entities~~parties will agree ~~between~~among themselves as to how much of the project will be provided by each entity. If agreement cannot be reached, SPP will facilitate the ownership determination process.

- c. e. ~~A~~ designated provider for a project can elect to arrange for a new entity or another ~~existing~~ Transmission Owner to build and/or own the project in ~~their~~its place. If a designated provider~~(s) or providers~~does not or cannot agree to implement the project in a timely manner, SPP will solicit and evaluate proposals for the project from other entities and select a replacement ~~designated provider~~.

### 3.4 Use of Distribution Facilities

~~Each~~ Transmission Owner shall provide such service over its Distribution Facilities, where applicable, as is necessary to effectuate transmission transactions administered by SPP, at approved rates, and subject to a separate tariff or agreement as appropriate.

### 3.5 Providing Information

~~Each~~ Member shall provide such information to SPP as is necessary for SPP to perform its obligations under this Agreement and the ~~Transmission Tariff~~OATT, and for planning and operational purposes. Such information ~~may~~shall be treated as confidential when so designated ~~by the providing member~~ so long as its designation is reasonable.

### 3.6 Facilities Access

~~Each~~ Transmission Owner shall allow SPP, ~~;~~ such access to Tariff Facilities as is necessary for SPP to perform its obligations under this Agreement. Such access shall be at reasonable times and under reasonable conditions.

### 3.7 Inspection and Auditing Procedures

~~Each~~ Transmission Owner shall grant SPP ~~and each regulatory authority having jurisdiction over that Transmission Owner, ;~~ such access to ~~the Transmission Owner's~~sits books and records as is necessary for SPP to perform its obligations under this Agreement and to audit and verify transactions under this Agreement. Such access shall be at reasonable times and under reasonable conditions. ~~A~~ Transmission Owner shall not be required to provide access to

confidential information unless it consents, ~~its consent not to be~~ which consent will not unreasonably be unreasonably withheld. ~~Such~~ Transmission Owner may require reasonable disclosure conditions before giving its consent. Disclosure of confidential information shall be made consistent with such disclosure conditions or in accordance with any effective order requiring production of such confidential information issued by a court or regulatory authority. SPP shall provide ~~the affected~~ Transmission Owner immediate notice of any request by an entity to review any such confidential information.

### 3.8 Compliance with Bylaws and Other Policies and Procedures

- a. ~~a. Each~~ Member agrees to and will comply with and abide by the provisions of the SPP Bylaws and pay, when due, any dues, assessments, OATT charges, and other amounts owing to SPP.
- b. ~~b. Each~~ Member shall comply with all approved and applicable SPP and NERC policies, principles, criteria, standards, and guides and monitoring and certification procedures.
- c. ~~c. Where~~ Members ~~who are~~ is also a members of another NERC regional reliability council it may, at ~~their~~ its request and upon approval of the President, be granted a waiver of responsibilities associated with SPP Criteria and/or Bylaws that are duplicative of or inconsistent with responsibilities of membership in another council. Where Members ~~receiving~~ receives such a waiver, it agrees s to forgo voting privileges on issues before any organizational group pertaining to waived responsibilities.

### 3.9 Planning and Participation

~~Each Member shall be entitled to participate and each~~ Transmission Owner shall participate in regional joint planning and coordinated operation of the Electric Transmission System. Non-Transmission Owner shall be entitled to participate in regional joint planning and coordinated operation of the Electric Transmission System.

### 3.10 Pricing

~~Each~~ Transmission Owner shall possess the unilateral right to file with FERC pursuant to Section 205 of the Federal Power Act modifications to change the rates or rate structure for transmission service over its Tariff Facilities and to submit proposals or filings governing new construction with FERC; provided, however, ~~a~~ Transmission Owner may not submit a proposal which results in a Transmission Customer paying two or more transmission charges for transmission for one transaction under the ~~Transmission Tariff~~ OATT ~~involving Tariff Facilities~~

(excluding Distribution Facilities for which an additional charge may be imposed, and Grandfathered Agreements as defined in the ~~Transmission Tariff~~ OATT). ~~No SPP approval is required for such filings though the~~ Transmission Owner shall notify SPP in advance of ~~the filing of~~ its intention to submit a filing ~~with~~ to FERC and provide SPP with a copy of the filing. No approval from SPP is required for such filings.

#### 4.0 Withdrawal Of ~~Transmission Owners' Facilities And Withdrawal By Non-~~ Transmission Owners Member

##### 4.1 ~~Withdrawal~~ Notice

##### 4.1.1 Transmission Owners

~~A~~ Transmission Owner may withdraw upon providing twelve months written notice to the President, ~~upon submission of a written notice of withdrawal to the President, commence a process of withdrawal of its Tariff Facilities from SPP's administration. Such withdrawal shall not be effective until October 31 of the calendar year following the calendar year in which notice is given; provided that the Transmission Owner must provide at least 12 months notice. The President will advise the Membership and the Board of Directors of any withdrawal notices received. A notice rescinds any previous notices of withdrawal.~~ With regard to any such withdrawal by a FERC ~~public-jurisdictional~~ utility, the ~~withdrawing Transmission Owner's~~ withdrawal shall not become effective until FERC has accepted the notice of withdrawal or otherwise allowed such withdrawal, if applicable. ~~At the time the withdrawal becomes effective and unless otherwise requested by the withdrawing Transmission Owner, it shall be classified as a Non-Transmission Owner under this Agreement. If such~~ the withdrawal of Transmission Owner facilities creates a situation in which a another second Transmission Owner is no longer physically interconnected with the ~~Electric Transmission System~~ SPP Region, SPP shall determine ~~if such withdrawal affects~~ the ability of such ~~second~~ Transmission Owner to continue its membership as a Transmission Owner. Transmission Owner shall pay all existing obligations as defined in Section 4.2.

##### 4.1.2 Non-Transmission Owners

Non-Transmission Owners ~~s~~ may withdraw upon providing twelve months written notice to the President. The President will advise the Membership and the Board of Directors of any withdrawal notices received. A notice rescinds any previous notices of withdrawal. Such ~~withdrawal shall not be effective until October 31 of the calendar year following the calendar~~

~~year in which notice is given.~~ Non-Transmission Owners ~~withdrawing~~ shall pay all ~~Existing existing~~ Obligations ~~obligations~~ as defined in Section 4.2.2.

#### 4.2 Effect of Withdrawal ~~on Contractual Obligations~~

This Section 4.2 applies to withdrawals under both Sections 4.0 and 5.0 of this Agreement as well as any termination pursuant to Section 6.0.

##### 4.2.1 Users Held Harmless

Transmission Customers taking service which involves facilities being withdrawn by ~~a~~ Transmission Owner from SPP's administration and which involves transmission contracts executed before ~~the~~ Transmission Owner provided notice of its ~~facilities~~ withdrawal shall continue to receive the same service for the remaining term of the contract at the same rates, terms, and conditions that would have been applicable if there were no withdrawal of facilities. ~~The withdrawing~~ Transmission Owner ~~shall~~ agrees to continue providing service to such Transmission Customers, and shall receive revenues calculated in accordance with the ~~Transmission Tariff~~ OATT but no more in revenues for that service than if there had been no withdrawal of its ~~facilities~~ ~~by such Transmission Owner~~.

##### 4.2.2 Existing Obligations

The "existing obligations" of a withdrawing or terminated Member shall mean:

- a. Member's unpaid membership fee, if any;
- b. any assessments imposed on Member in respect of SPP's costs or expenses paid prior to the effective time of Member's withdrawal or termination;
- c. any costs or expenses imposed upon SPP as a direct consequence of Member's withdrawal or termination, whether payable prior to or after Member's withdrawal or termination and including, without limitation, any prepayment premium or penalty in respect of SPP's debt;
- d. Member's share (computed in accordance with the SPP Bylaws) of SPP's long-term obligations as of the effective time of Member's withdrawal or termination, with long-term obligations defined as amounts outstanding and payable under negotiated financing obligations, including but not limited to operating leases, capital leases, debt obligations, and debt instruments; and
- d. Member's share (computed in accordance with the SPP Bylaws) of interest scheduled to accrue ("future interest") on SPP's long-term obligations between the effective date of



Member's withdrawal or termination and the scheduled maturity of each long-term obligation (in the event that an obligation carries a variable interest rate, the interest rate in effect at the effective date of Member's withdrawal or termination shall be used for purposes of this paragraph); provided, however, that in computing the Member's share of future interest under this paragraph (e), SPP shall take into account SPP's ability to mitigate the Member's share of future interest by a commercially reasonable application (such as prepayment of debt or investment in an interest-bearing instrument) of the Member's share of debt obligations and debt instruments due under the immediately preceding paragraph (d).

SPP shall invoice Member for existing obligations as soon as reasonably practical after the effective date of Member's withdrawal or termination, and Member shall pay its existing obligations to SPP within 30 days after receipt of the invoice. Any amounts owed by SPP to Member shall be, at SPP's election, offset against Member's existing obligations or paid to Member concurrently with issuance of the invoice for existing obligations. Member acknowledges and agrees that existing obligations include amounts that may accrue and be payable by SPP following Member's withdrawal or termination, and that no part of a payment of existing obligations shall be refundable to Member under any circumstances, including (except as provided in paragraph (e) above) any mitigation by SPP of its long-term obligations in connection with Member's withdrawal or termination. Any disagreement as to existing obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws. ~~All financial obligations incurred and payments applicable to time periods prior to the effective date of such withdrawal shall be honored by SPP and the withdrawing Member. The withdrawing Member's existing obligations shall include, as calculated pursuant to the SPP Bylaws, all costs or expenses incurred up until the date withdrawal becomes effective. The withdrawing Member shall pay such costs or expenses it owes within 30 days after receiving an invoice from SPP. SPP shall pay the withdrawing Member any monies it owes that Member within 30 days after the withdrawal became effective. The withdrawing Member or SPP may net the amounts due it by any amounts it owes.~~

#### **4.2.3 Construction of Facilities**

Obligations relating to the construction of new facilities pursuant to an approved plan of SPP shall be renegotiated between SPP and the withdrawing Member, where applicable. If such

obligations cannot be resolved through negotiations, they shall be resolved in accordance with SPP ~~the~~ dispute resolution procedures in the Bylaws.

#### 4.2.4 Regulatory and Other Approvals or Procedures

~~The withdrawal~~ Withdrawal by ~~a~~ Transmission Owner ~~of its facilities~~ from SPP shall also be subject to applicable federal and state law and regulatory approvals or procedures.

### 5.0 Regulatory, Tax, And Other Authorities

#### 5.1 Regulatory and Other Authorities

This Agreement and the participation of ~~the signatories~~ Member is subject to acceptance or approval by ~~the~~ FERC, and may be subject to actions of respective state regulatory authorities to which ~~respective signatories~~ Member may be subject, and to the actions of any other governmental body which may affect the ability of ~~any signatory~~ Member to participate in this Agreement. The following items describe ~~the signatories'~~ Member's rights and obligations in the event regulatory and other approvals or acceptances are not obtained or changes are required:

- a. ~~a.~~ In the event ~~the~~ FERC disapproves or refuses to accept this Agreement or the changes to the ~~Transmission Tariff~~ OATT developed together with this Agreement, then this Agreement shall cease to be effective except that the signatories shall be obligated to attempt expeditiously and in good faith to negotiate a substitute agreement and ~~tariff~~ OATT which address the reasons for such FERC action. If, despite such good faith negotiation, the signatories are unable to produce such a substitute agreement and ~~tariff~~ OATT, then the signatories shall have no further obligations under this Agreement or any filing associated herewith.
- b. ~~b.~~ In the event of any order or decision by ~~the~~ FERC or by a court modifying this Agreement or the ~~Transmission Tariff~~ OATT submitted as part of the initial filing seeking FERC acceptance or approval, that in the judgment of ~~the~~ Member adversely affects it, then ~~such~~ Member, at its sole discretion, may withdraw from this Agreement by providing written notice to the President of SPP no later than thirty days after such order or decision without receiving any FERC authorization. In such event, ~~the~~ Member will in good faith negotiate to determine whether changes should be made to the Agreement or ~~Transmission Tariff~~ OATT to address the reasons for ~~such~~ Member's withdrawal.

## 5.2 Tax Authorities

If the Internal Revenue Service or any other federal, state, or local taxing authority issues, or fails to issue, any ruling, or imposes any requirement or obligation, in connection with this Agreement on ~~any Member~~, adverse to ~~such Member~~ (in its sole judgment), or if adherence to this Agreement ~~participating as a Transmission Owner or Member~~ jeopardizes the tax-exempt status of ~~any Transmission Owner or Member~~ or ~~any Transmission Owner's or Member's~~ its bonds, then ~~such Transmission Owner or Member~~ may, within 30 days of the date of such final order, or a good faith belief of such adverse consequences, withdraw from this Agreement subject to receiving any necessary regulatory approvals. In such event, the ~~signatories~~ Member and SPP, ~~including the withdrawing party~~, will, in good faith, negotiate to determine whether changes should be made to the Agreement to address the reasons for ~~such signatory's~~ Member's withdrawal.

## 5.3 Effectiveness as to Certain Members

The effectiveness of this Agreement as to ~~a Member~~ where it ~~which~~ is a governmental entity and ~~which~~ has outstanding tax-exempt bonds issued to finance, in whole or in part, generation, transmission, or ~~distribution~~ Distribution facilities ~~Facilities~~ is dependent upon satisfaction or Member's written waiver of the following conditions precedent:

- a. ~~a.~~—Receipt of an unqualified opinion of a ~~qualified~~ nationally recognized bond counsel to the effect that the provisions of this Agreement do not adversely affect the exclusion from gross income of interest on any such outstanding bonds issued to finance generation, transmission, and ~~distribution~~ Distribution facilities ~~Facilities~~ under the Internal Revenue code of 1986, as amended;
- b. ~~b.~~—Receipt of an unqualified opinion of a nationally recognized bond counsel ~~and or~~ general counsel to ~~such governmental entity~~ Member to the effect that the provisions of this Agreement do not constitute a breach or impairment of, or a default under, any agreement to which ~~such governmental entity~~ it is a party, including, but not limited to, its master bond resolution, as amended, and any power sales contracts with its municipal transmission users (if any), as amended, or other agreements;
- c. ~~c.~~—Receipt of a certificate of the trustee for any such outstanding bonds issued for generation, transmission and ~~distribution~~ Distribution facilities ~~Facilities~~ to the effect that ~~the governmental entity's~~ Member's entry into this Agreement is permitted under the master bond resolution, as amended; and

~~d. d.~~ Receipt of an opinion of nationally recognized bond counsel ~~and or~~ general counsel to ~~the governmental entity~~ Member that ~~such governmental entity~~ it has full constitutional and statutory authority to enter into this Agreement.

In the event that any of the foregoing conditions are not satisfied or waived by ~~a governmental entity~~ Member, then ~~the adversely affected governmental entity~~ it shall promptly give notice of its objections or conditions which have not been satisfied to ~~the other signatories~~ SPP, and ~~the signatories~~ SPP shall expeditiously attempt in good faith to negotiate a substitute agreement.

## 6.0 Removal Of Members

The Board of Directors may terminate the ~~Membership membership~~ of ~~any~~ Member for cause, including ~~but not limited to, for example, material~~ violation of the ~~SPP~~ Bylaws or nonpayment ~~of obligations, subject to any applicable regulatory approvals~~. Such Board of Directors termination shall be after an affirmative vote consistent with the voting procedures in ~~SPP's the~~ Bylaws. ~~Where A Member membership is~~ terminated by the Board, ~~Member~~ shall comply with the requirements of Section 4.2 of this Agreement as if it ~~has had~~ voluntarily withdrawn from ~~the Agreement~~ SPP.

## 7.0 Effective Date, Duration, And Transition

~~a. a.~~ This Agreement shall be effective ~~for any signatory~~ on the Effective Date and shall remain in force until ~~the~~ Member's withdrawal becomes effective ~~under this Agreement~~ or this Agreement is terminated. In the event of termination of this Agreement, all financial obligations incurred and payments applicable to time periods prior to the effective date of such termination shall be honored by SPP and ~~each~~ Member as of the date of termination. In addition, all obligations incurred pursuant to Section 4.2 of this Agreement shall survive such termination.

~~b. b.~~ ~~For any~~ ~~Where~~ Member ~~that has,~~ prior to the Effective Date of this Agreement, executed an agency agreement and/or a membership agreement with SPP, upon the Effective Date of this Agreement ~~those any~~ prior agreements shall be considered terminated between ~~the~~ Member and SPP.

## 8.0 Miscellaneous Provisions

### 8.1 Governing Law

This Agreement shall be interpreted, construed, and governed by the laws of the State of Arkansas, 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.

## 8.2 Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon SPP and Members, their respective successors and assigns permitted hereunder, but shall not be assignable by ~~a~~ Member, by operation of law or otherwise, without the approval of the Board of Directors which approval shall not be unreasonably withheld, except that no Board of Directors approval is required as to a successor in the operation of ~~the~~ Transmission Owner's Tariff Facilities committed to administration by SPP by reason of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of which substantially all such transmission facilities are acquired by such successor, and such successor becomes a Transmission Owner under this Agreement.

## 8.3 No Implied Waivers

The failure of ~~a~~ Member or SPP 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~~ Member's or SPP's rights 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.

## 8.4 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. This Section 8.4 does not modify or change in any way the right of ~~a~~-Member to withdraw as provided elsewhere in this Agreement.

### 8.5 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~~-Members and SPP 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~~-Members or SPP may exercise any ~~individual or collective~~ withdrawal or termination rights available under Sections 4, ~~and 5~~ or 6 of this Agreement.

### 8.6 Representations and Warranties

~~Each~~-Member and SPP ~~each~~ represents and warrants to ~~the~~ other ~~signatories~~ that as of the later of the date it executes this Agreement or the Effective Date of this Agreement:

- ~~a.~~ a. It is duly organized, validly existing, and in good standing under the laws of the jurisdiction where organized.;
- ~~b.~~ b. Subject to any necessary approvals by federal or state regulatory authorities of SPP, the execution and delivery by ~~each~~-Member and SPP of this Agreement, and the performance of its respective obligations hereunder have been duly and validly authorized by all requisite action on the part of the signatories and does not conflict with any applicable law or with any other agreement binding upon the signatories, other than third party joint agreements covered in this Agreement. This Agreement has been duly executed and delivered by Members and SPP, and, subject to the conditions set forth in this Agreement, constitutes the legal, valid, and binding obligation on the part of ~~each~~ Member and SPP, 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.;
- ~~c.~~ c. There are no actions at law, suits in equity, proceedings, or claims pending or, to the knowledge of ~~each~~-Member or SPP, threatened against ~~the~~-Members or SPP 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.

### 8.7 Further Assurances

~~Each~~ Member and SPP agree that ~~it~~ each 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.

### 8.8 Delivery of Notices

Except as otherwise expressly provided herein, notices required under this Agreement shall be in writing and shall be sent to ~~each~~ Member or SPP by U.S. mail, overnight courier, hand delivery, facsimile, or other reliable electronic means. Any notice required under this Agreement shall be deemed to have been given either upon delivery, if by U.S. mail, overnight courier, or hand delivery, or upon confirmation, if given by facsimile or other reliable electronic means.

### 8.9 Entire Agreement

This Agreement, ~~the Bylaws, SPP Criteria, and the Transmission Tariff, and their duly approved replacements,~~ constitutes s the entire agreement ~~among~~ between Members and SPP with respect to the subject matter of this Agreement, and no previous oral or written representations, agreements, or understandings made by any officer, agent, or employee of ~~any~~ Member or SPP shall be binding up on ~~any such Member or SPP~~ either party unless contained in this Agreement, ~~the Bylaws, SPP Criteria, the Transmission Tariff, or the Agency Agreement.~~

### 8.10 Good Faith Efforts

~~Each~~ Member and SPP agree that ~~it~~ each shall in good faith take all reasonable actions necessary ~~to permit it and other signatories~~ to fulfill ~~their~~ its respective obligations under this Agreement. Where the consent, agreement, or approval of ~~any~~ Member or SPP must be obtained hereunder, such consent, agreement, or approval shall not be unreasonably withheld, conditioned, or delayed. Where ~~any~~ Member or SPP 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~~ Member and SPP ~~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.

### 8.11 Third Party Joint Agreements

This Agreement, ~~the Bylaws, and the Transmission Tariff~~ shall not be construed, interpreted, or applied in such a manner as to cause ~~any Transmission Owner~~ Member to be in material breach, anticipatory or otherwise, of any agreement (in effect on the later of the Effective Date of this Agreement or the date that it becomes a ~~Transmission Owner~~ Member under this Agreement) between ~~such Transmission Owner~~ Member and one or more third parties who are not signatories (regardless of the inclusion of one or more other ~~Transmission Owners~~ Members as parties to such agreement) for the joint transmission, operation, or maintenance of any electrical facilities covered by this Agreement or the ~~Transmission Tariff~~ OATT. ~~A Transmission Owner~~ ~~Where Member~~ who has such a third party joint agreement, ~~it~~ shall discuss with the Board of Directors any material conflict between such third party joint agreement and this Agreement, ~~the Bylaws or the Transmission Tariff raised by a third party to such joint agreement~~, but the resolution of such a conflict shall be and remains within the sole discretion of ~~such signatory~~ Member; provided, however, that ~~such signatory~~ Member shall, if otherwise unresolved, utilize the available remedies and dispute resolution procedures to resolve such conflict, including, but not limited to, submitting such conflict to ~~the~~ FERC for resolution; provided, further, that in no event shall ~~such signatory~~ Member enter into a resolution of such conflict which would impair the reliability of the Electric Transmission System.

### 8.12 Amendment

This Agreement may be amended, ~~repealed, or added to~~ by ~~SPP's~~ ~~the~~ Board of Directors, ~~only upon 30 days written notice to the Membership of the proposed modification(s), and~~ subject to ~~receiving~~ any necessary regulatory approvals. ~~Approval of amendments to this Agreement by the Board of Directors must be by an affirmative vote of at least five directors. The signatories to this Agreement~~ Member agrees to be bound by this Agreement as it may be amended, provided that ~~the signatories~~ Member possesses the right to challenge any amendments at FERC and to exercise any withdrawal rights that ~~they~~ ~~it~~ possesses under this Agreement if ~~they~~



~~are~~it is dissatisfied with the amendment.

### 8.13 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 ~~all of the Members~~ and SPP, ~~notwithstanding that all such Members, and SPP may not have executed the same counterpart.~~

IN WITNESS WHEREOF, ~~the~~ Member and SPP have caused their duly authorized representatives to execute ~~and attest~~ this Agreement, on their respective behalves. ~~SPP is authorized to sign this Agreement with the "Special Conditions" on behalf of its membership. The "Special Conditions" are attached hereto as Exhibit "1", dated 9-13-2000 and by this reference made a part hereof.~~

**MEMBER:**

\_\_\_\_\_  
Name of Member

\_\_\_\_\_  
Type of Entity (Transmission Owner or Non-Transmission Owner)

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date of Execution

**SOUTHWEST POWER POOL, INC.:**

John Marschewski  
\_\_\_\_\_  
Name of Authorized Representative

President  
\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date of Execution

## **APPENDIX X INDEPENDENT TRANSMISSION COMPANY**

This APPENDIX X INDEPENDENT TRANSMISSION COMPANY (this "Appendix") is entered into as of DATE, by and between SOUTHWEST POWER POOL, INC. ("SPP"), and ##### COMPANY ("ITC"). SPP and ITC is each individually referred to as a ("Party") and are jointly referred to as the ("Parties").

### **RECITALS**

WHEREAS, ITC desires to operate as an ITC within the SPP region; and

WHEREAS, in furtherance of the foregoing, the Parties desire to set forth the terms and conditions governing ITC's participation within the SPP region.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties adopt this Appendix and agree as follows:

### **ARTICLE 1**

#### **DEFINITIONS**

The terms used in this Appendix shall have the same meaning as in the ITC Rate Schedule to the SPP OATT or, if not defined therein, the SPP Membership Agreement ("SPP Agreement"), unless otherwise specified herein.

"ATC" has the meaning set forth in Section 6.2 hereof.

"Authority" has the meaning set forth in Section 18.3 hereof.

"Confidential Information" means all (a) information that is furnished to a Recipient by the Disclosing Party or its Representatives, in whatever form, that may constitute or contain confidential, proprietary or trade secret information, or which may otherwise be claimed by the Disclosing Party to be of a market-sensitive, competitive, confidential or proprietary nature, and (b) all portions of any analyses, compilations, studies or other documents that include any of the foregoing information prepared by or for a Recipient. "Confidential Information" excludes any information that (i) the Disclosing Party notifies the Recipient in writing is not confidential; (ii) becomes available to the Recipient on a non-confidential basis from a source other than (A) the Disclosing Party, its Representatives or another person acting on behalf of the Disclosing Party, or (B) a party who has confidentiality obligations to the Disclosing Party; (iii) is or becomes generally available to the public other than as a result of a disclosure by the Recipient, its Representatives or any person to whom such Recipient or Representatives disclosed the information; (iv) was previously known to the Recipient free and clear of any obligation to keep it confidential; (v) is disclosed to third parties by the Disclosing Party without restriction or obligation of confidentiality; or (vi) is independently developed by the Recipient without reference to the Disclosing Party's Information.

“Control Date” has the meaning set forth in Section 4.1.3 hereof.

“Direct Claim” has the meaning set forth in Section 17.6 hereof.

“Disclosing Party” means ITC or SPP to the extent either such party is furnishing the other party with Confidential Information concerning itself or its affiliate(s).

“Effective Date” has the meaning set forth in Section 2.1 hereof.

“Facilities” mean those transmission facilities over which ITC will exercise functional responsibility pursuant to the Transfer Agreements. Schedule 1 attached hereto sets forth a description of such transmission facilities in accordance with ITC membership agreement. Schedule 1 may be revised from time to time by ITC in accordance with its arrangements and agreements with the various ITC Participants.

“Good Utility Practice” has the meaning set forth in the SPP Agreement.

“Indemnifying Party” has the meaning set forth in Section 17.4 hereof.

“Indemnitee” has the meaning set forth in Section 17.4 hereof.

“ITC Integration Costs” has the meaning set forth in Section 13.1 hereof.

“ITC Participants” means those parties set forth on Schedule 3 attached hereto and incorporated herein by reference, as the same may be amended and updated from time to time.

“ITC System” has the meaning set forth in Section 4.1.3 hereof.

“ITC Zonal Rates” means the rates applicable to the applicable ITC Zone, as may be changed from time to time.

“ITC Zones” means the applicable RTO pricing zones for which the rates accepted or approved by FERC for the ITC Participants shall apply.

“Member” has the meaning set forth in the SPP Agreement.

“SPP OATT” has the meaning set forth in Section 4.1.2 hereof.

“Non-jurisdictional ITC Participant” ITC Participants that are Transmission Owners but are not jurisdictional to FERC as public utilities.

“OASIS” has the meaning set forth in Section 6.1 hereof.

“Order No. 2000” means the order of FERC set forth in *Regional Transmission Organizations*, Order No. 2000, FERC Stats and Regs (Regulations Preambles) ¶ 31,089 (1999), *order on reh’g*, Order No. 2000-A, FERC Stats and Regs (Regulations Preambles) ¶ 31,092 (2000).

“Transmission Owners” has the meaning set forth in the SPP Agreement.

“Participant Members” shall mean the ITC Participants that are transmission owner Members of SPP immediately prior to the Effective Date.

“Participant Non-Members” shall mean the ITC Participants that are not presently transmission owner Members of SPP but who intend, subject to all applicable conditions and consents, to indirectly participate in SPP through their participation in ITC.

“Recipient” means ITC or SPP to the extent such Party is receiving Confidential Information of the Disclosing Party.

“Reliability Coordination Service” has the meaning set forth in Section 4.2.1 hereof.

“Reliability Coordinator” has the meaning set forth in Section 4.2.3 hereof.

“Reliability Region” transmission facilities under the SPP Regional Criteria.

“Representatives” means principals, partners, officers, directors, employees, agents, and other representatives, experts and advisors, including without limitation, attorneys, independent accountants, consultants, and financial advisors, and Representatives of such Representatives.

“RTO” means a regional transmission organization, as contemplated in Order No. 2000.

“Services” mean those services and functions which taken together enable certain of the ITC Participants to comply fully with Order No. 2000, and shall include the transmission services described in, and to be provided by SPP under, this Appendix.

“Subordinate Load Balancing Area” or “SLBA” means a metered electrical portion of ITC’s control area where load is calculated and balanced against resources scheduled to serve the load, under the coordination of ITC.

“Third Party Claim” has the meaning set forth in Section 17.4 hereof.

“Transfer Agreements” means those certain agreements to be entered into among ITC and the ITC Participants pursuant to which each such ITC Participant will transfer ownership, lease and/or otherwise transfer functional responsibility over certain of such ITC Participant’s transmission facilities to ITC.

“Electric Transmission System” has the meaning set forth in the SPP Agreement.

“Transmission Customers” has the meaning set forth in the SPP Agreement.

## **ARTICLE 2**

### **FILING, EFFECTIVE DATE, SERVICE DATE, TERM, AND TERMINATION**

2.1 ITC and SPP shall jointly file with FERC for approval of this Appendix as soon as practicable following the execution hereof. This Appendix shall become effective upon the date that is approved or accepted by FERC (the “Effective Date”). Each Party shall use its best efforts to gain FERC approval or acceptance of this Appendix on an expedited basis and agrees

to provide support for the model set forth in this Appendix in public fora and elsewhere. If FERC accepts and generally approves this Appendix but requires a compliance filing by either of the Parties, the Parties shall evaluate whether such required compliance filing materially changes or frustrates the intent of this Appendix. The Parties agree to negotiate in good faith to establish new terms and conditions that place the Parties in the same position as bargained for in this Appendix. In the event that the Parties cannot reach an agreement within 30 days of FERC action on new terms and conditions, or the new terms and conditions are not subsequently accepted by FERC, ITC may withdraw its application to join SPP upon thirty (30) days written notice.

2.2 Except as otherwise provided in this Article 2, this Appendix shall remain in effect following the Effective Date until terminated in accordance with the SPP Agreement.

2.2.1 in the event of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of which (a) substantially all of the transmission facilities constituting the ITC System or (b) substantially all of the transmission facilities over which a ITC Participant has given ITC functional responsibility, are acquired by another entity, such other entity shall have the right to withdraw such facilities from SPP in accordance with the withdrawal provisions of the SPP Agreement

2.2.2 ITC may withdraw from this Appendix in accordance with the withdrawal provisions of the SPP Agreement with respect to the withdrawal of a Transmission Owner from SPP; and

2.2.3 ITC may withdraw the transmission facilities of an ITC Participant that is not a public utility as defined in the Federal Power Act (“Non-jurisdictional ITC Participant”) from this Appendix effective as of each annual anniversary of the Control Date, without cause upon prior written notice to SPP at least thirty (30) days prior to such anniversary.

2.3 In addition, nothing in this Appendix shall obligate any ITC Participant Non-Member to execute the SPP Agreement if such party withdraws from ITC. Further, if an ITC Participant withdraws from ITC pursuant to the preceding sentence, then ITC shall withdraw the transmission facilities of such ITC Participant from SPP upon thirty (30) days written notice.

2.4 A Transfer Agreement of a Non-jurisdictional ITC Participant shall, if requested by such Non-jurisdictional ITC Participant, be filed by the Parties with the Federal Energy Regulatory Commission (“FERC”) as a Schedule to this Appendix. The inclusion of such Transfer Agreements in a filing at FERC shall not subject such Transfer Agreements to FERC jurisdiction under the Federal Power Act and the Mobile-Sierra doctrine thereunder. The Parties acknowledge that the provisions of the Transfer Agreements, including any Transfer Agreement filed as a Schedule to this Appendix, define the extent of ITC’s authority over the ITC System, including the extent and duration of ITC’s authority to make the transmission facilities of the ITC Participants available for service under the OATT. Nothing in this Appendix shall be construed to restrict the right of ITC and ITC Participants to agree and file changes to such Transfer Agreements without the approval of SPP.

## ARTICLE 3

### STRUCTURE OF RTO ARRANGEMENT

3.1 Provided that (a) ITC receives all necessary FERC acceptances or approvals to operate as an ITC under Appendix X to the SPP Agreement in the form provided in this Appendix, for which the Parties agree to seek FERC approval, (b) the ITC Participants receive all necessary approvals to transfer the functional responsibility over their electric transmission facilities to ITC, without conditions unacceptable to such ITC Participants, and (c) ITC assumes functional responsibility over the electric transmission facilities of some or all of the ITC Participants, ITC agrees to be treated as an ITC within SPP pursuant to the terms and conditions of this Appendix. ITC will be treated as a Transmission Owner under the SPP Agreement to the same extent as if it owned transmission facilities within SPP. ITC will represent the ITC Participants with respect to the governance and activities of SPP concerning the Facilities and the Participant Members shall be released from their obligations as Transmission Owners under the SPP Agreement, which are assumed by ITC in the manner and to the extent set forth in this Appendix. ITC will have the same rights and voting authority as Transmission Owners under the SPP Agreement. Nothing in this Appendix will preclude the ITC Participants or any of their affiliates from participating in appropriate SPP matters. Upon ITC's execution of the SPP Agreement, ITC shall be bound to the terms thereof. Notwithstanding any provision contained in this Appendix or in any other document to the contrary, references to the SPP Agreement in this Appendix shall mean the SPP Agreement and the Appendices thereto as the same exist on the date hereof (and as the same may be amended from time to time by the Board of Directors of SPP in accordance with the SPP Bylaws, insofar as affecting this Appendix or the rights, entitlements or obligations of ITC, the ITC will have rights to file protests at the Board of Directors and FERC and will be documented hereunder pursuant to Section 19.2 hereof). In the event of a conflict between any provision of this Appendix and any provision of the SPP Agreement, the provisions of this Appendix shall govern.

3.2 With respect to its supply of Services under this Appendix, notwithstanding any other provision of this Appendix, SPP shall not discriminate against ITC *vis-a-vis* other SPP Members or Transmission Customers to which it supplies identical or substantially similar services.

3.3 It is recognized that reliability of the transmission systems is paramount and only one entity can have ultimate authority over the transmission system at any given time. Therefore, should any real-time operating disputes arise between SPP, ITC, or ITC Participants, in the lawful exercise of their respective authority, SPP's operating position and directives will prevail and will be subject to after-the-fact review and dispute resolution, as appropriate.

## ARTICLE 4

### **TRANSMISSION FACILITIES OPERATED BY ITC SUBJECT TO THE DELINEATION OF FUNCTIONS SET FORTH IN SCHEDULE 4 TO THIS APPENDIX AND TO CERTAIN PROTOCOLS SET FORTH IN VARIOUS SCHEDULES TO THIS APPENDIX**

#### 4.1 Functional Responsibility; Reliability; Provision of Regional Transmission Service.

4.1.1 ITC will exercise functional responsibility (as defined in the applicable Transfer Agreements) over the Facilities (in the manner and as provided in such Transfer Agreements). To the extent required and/or applicable, the ITC Participants that are public utilities under the Federal Power Act (as the same may be amended from time to time, the “FPA”) have (a) filed applications with FERC, pursuant to Section 203 of the FPA, to transfer functional responsibility over certain of their transmission facilities to ITC and (b) conditionally received the necessary authorization of FERC to proceed. To the extent required by law, each new ITC Participant shall apply for similar authority from FERC. Those ITC Participants that are not public utilities under the FPA will not make filings under Section 203 of the FPA but rather their participation in ITC (including the terms pursuant to which they convey to ITC functional responsibility over their transmission facilities) will be governed by the terms of their respective Transfer Agreement with ITC.

4.1.2 With respect to the Facilities, ITC will cede to SPP those functions set forth in Schedule 4 to this Appendix that are to be performed by SPP and are within the scope of the functional responsibility that ITC has assumed pursuant to the Transfer Agreements. ITC shall perform those functions set forth in Schedule 4 to this Appendix that are to be performed by ITC. The Parties recognize and agree that a condition precedent to the commencement of full operations pursuant to the Delineation of Functions in Schedule 4 is that the development of the ITC systems and assets to be completed and integrated into the SPP systems. Following complete integration of systems, service over the Facilities will be provided under the SPP Open Access Transmission Tariff on file with FERC or any successor tariff (the “SPP OATT”).

4.1.3 Each of SPP and ITC shall promptly notify the other in writing of the satisfaction of all applicable legal requirements, system readiness, and systems integration necessary for SPP to assume its responsibilities under the Delineation of Functions. On the first day of the month following the receipt of such written notices, but no sooner than the fifth day following the date of such notice by SPP (the “Control Date”), ITC and SPP shall assume their respective responsibilities under the Delineation of Functions over the facilities constituting the ITC transmission system within the SPP region (“ITC System”). SPP will thereafter exercise its delineated functions over the Facilities and the ITC System in accordance with the SPP Agreement. Prior to the Control Date, however, SPP shall be responsible for functions set forth in Article 4 for the Participant Member systems.

4.1.4 On and after the Control Date, SPP shall have responsibility for the reliability of the ITC System consistent with its responsibilities under Schedule 4 to this Appendix and in accordance with the SPP Agreement.



4.1.5 On and after the Control Date, ITC and SPP will provide transmission service over the ITC System and in the ITC Zones on a non-discriminatory basis under, and in accordance with Schedule 4 to this Appendix and the SPP OATT, subject to and in accordance with the provisions and limitations of Section 11 hereof. SPP shall administer the SPP OATT.

4.1.6 After the Control Date, SPP shall offer within the ITC Zones, as part of the SPP OATT, all such ancillary services as are required by FERC to be offered under the SPP OATT. SPP shall obtain such services from providers, including the ITC Participants, in a manner that minimizes cost, and is consistent with its reliability responsibilities and other obligations under this Appendix. In obtaining such ancillary services, SPP shall afford no undue preference or disadvantage to any generation supplier. ITC shall establish a control area in accordance with NERC Policy and ancillary services tariff pursuant to which the ITC Participants shall offer to provide ancillary services required for OATT transmission service and nothing in this Appendix shall preclude an ITC Participant from self-supplying any necessary ancillary services. Moreover, nothing in this Appendix shall preclude ITC (consistent with FERC policy and on behalf of the ITC Participants) or the ITC Participants from participating in any competitive ancillary services markets that may be created within the SPP region.

4.1.7 On and after the Control Date, SPP will perform congestion management functions with respect to the ITC System consistent with its responsibilities under Attachment ## of the SPP OATT or any other FERC approved congestion management plan that may be administered by SPP from time to time.

4.1.8 Legal and equitable title to the respective properties comprising the ITC System, including all land and land rights, and to all the Facilities or any facilities with ITC that may hereafter build or acquire, shall remain with ITC or the respective ITC Participants (unless the ITC Participants transfer title to another entity) and such title is not changed by this Appendix. ITC and the ITC Participants, either jointly or as individual participants, shall retain all rights incident to such legal and equitable title, including, but not limited to, the right, subject to applicable federal or state regulatory approvals and third party rights, to build, acquire, sell, dispose of, use as security or convey any part of such property, or use such property for purposes other than providing transmission services (such as the use of such property for telecommunications purposes), provided that the exercise of any such rights shall not impair the reliability of the Electric Transmission System.

## 4.2 Reliability Coordination Service.

4.2.1 On and after the Control Date, SPP will be the Reliability Coordinator for the ITC Zones, and shall enter into any such arrangements as are necessary to perform this function. SPP has all responsibilities and functions of Reliability Coordinator for the Facilities as defined by NERC Policy, including ultimate authority with regard to reliability of the Facilities. SPP shall supply the service specified in Schedule 2 to this Appendix (“Reliability Coordination Service”) together, in conjunction with, and as a part of, the reliability coordination function performed by SPP under the SPP Agreement.

4.2.2 Under SPP supervision, ITC may take actions to preserve the reliability of the ITC System, including redispatching generation to respond to emergencies. ITC shall inform SPP of any such actions and coordinate such actions with SPP.

4.2.3 Notwithstanding any other provision of this Appendix, SPP may intercede and direct appropriate actions in its role as the regional reliability coordinator (the “Reliability Coordinator”). If such SPP action is disputed by ITC, SPP’s position shall control pending resolution of the dispute.

4.2.4 Without limiting SPP’s general obligation under this Appendix to ensure non-discriminatory service to ITC, SPP shall take no intentional discriminatory action in carrying out Reliability Coordination Service which would advantage the transmission transactions scheduled on the system(s) of any other Members over transactions scheduled on the ITC System.

## **ARTICLE 5**

### **PREEXISTING OBLIGATIONS**

5.1 Existing ITC Participant OATT Agreements. SPP agrees to assume all rights and obligations under the ITC Participants’ OATT service agreements entered into prior to the Control Date, including, but not limited to agreements for network integration service and firm point-to-point transmission service. A list of such agreements is attached to the SPP OATT and such list, as in effect from time to time, is incorporated herein by reference.

5.2 Transmission Agreements Predating the ITC Participant OATTs. SPP will comply with all obligations to provide transmission service and related services incurred by the ITC Participants pursuant to agreements with third parties entered into prior to the effective date of the ITC Participants’ OATTs and certain other transmission agreements under a ITC Participant OATT entered into to implement a FERC-approved settlement and certain other transmission agreements identified in an operating agreement between ITC and a Non-jurisdictional ITC Participant. SPP may satisfy these obligations, in whole or in part, through the agreement for network integration service between SPP and each ITC Participant. A list of such agreements is attached to the SPP OATT and such list, as in effect from time to time, is incorporated herein by reference.

5.3 Regulatory Obligations. SPP acknowledges that the ITC Participants have certain obligations to transmission customers as a result of orders issued by FERC or other government authorities. ITC will identify such obligations to SPP prior to the Control Date. To the extent that ITC is unable to perform such obligations following the Control Date, SPP will use its best efforts to perform such obligations on ITC behalf, consistent with the SPP Agreement and the SPP OATT.

5.4 Limitation on SPP’s Obligations. Nothing in this Article 5 requires SPP to assume obligations for transmission service provided entirely outside of the ITC Zones or to perform any act prohibited by law.

## **ARTICLE 6**

### **ATC AND OASIS**

6.1 SPP shall maintain an Open Access Same-time Information System or Systems (“OASIS”) or successor system(s) pursuant to the SPP OATT. The OASIS shall conform to the requirements for such systems as specified by FERC.

6.2 On and after the Control Date, ITC and SPP shall review and approve, as appropriate, requests for service and schedule transmission transactions occurring over the ITC System in the manner set forth in Schedule 4 to this Appendix. SPP shall also determine available transmission capability (“ATC”) for the ITC System in the manner set forth in Schedule 4 to this Appendix, using values for total transmission capability (“TTC”) provided by ITC.

## **ARTICLE 7**

### **RATINGS AND TRANSMISSION MAINTENANCE**

7.1 On and after the Control Date, ITC shall provide to SPP ratings and operating procedures for the Facilities that comprise the ITC System subject to dispute resolution pursuant to Section 12 hereof if SPP disagrees. ITC’s position on such Facilities ratings shall prevail pending resolution of the dispute.

7.2 On and after the Control Date, ITC may set its own transmission maintenance and outage schedules subject to dispute resolution pursuant to Section 12 hereof if SPP objects to such schedules. ITC shall coordinate such transmission maintenance and outage schedules with SPP as described in Schedule 4 to this Appendix. With regard to disputes concerning such schedules, ITC’s position on such maintenance and outage schedules shall prevail pending resolution of the dispute, unless SPP, acting in its role as Reliability Coordinator under Section 4.2 hereof, determines that system reliability is involved, in which case SPP’s determination of maintenance and outage schedules shall prevail pending resolution of the dispute. ITC shall maintain the Facilities in accordance with Good Utility Practice.

## **ARTICLE 8**

### **CONSTRUCTION AND PLANNING**

8.1 On and after the Control Date, and until the implementation of planning processes and protocols pursuant to Section 8.2 of this Appendix, ITC shall plan the ITC System in coordination with SPP consistent with Schedule 4 to this Appendix and the provisions and protocols provided for in the SPP Agreement. SPP has the same obligations and responsibilities to ITC that it has to Members under the SPP Agreement.

8.2 The Parties agree to develop and implement streamlined processes and protocols to coordinate the transmission plans prepared by ITC with those of SPP. ITC’s planning process for its transmission system is described in Schedule 5 hereto, and, following the Control Date, ITC shall implement the planning process described in Schedule 5 hereto, as that schedule may be amended from time to time, provided that ITC shall obtain any necessary approval of FERC

for any such amendment and notify SPP of same.

8.3 Notwithstanding any other provisions of this Article 8, ITC shall use commercially reasonable efforts to construct or cause to be constructed transmission facilities as directed by SPP consistent with the provisions of the SPP Agreement.

## **ARTICLE 9**

### **RESPONSIBILITY FOR GENERATOR INTERCONNECTION SERVICE**

With respect to generation to be interconnected to the ITC System on or after the Control Date, SPP shall administer requests for such interconnections through a single regional interconnection queue, in accordance with pro forma interconnection procedures and agreements applicable to SPP. ITC shall possess the right to assume responsibility for studies to evaluate generator interconnection service within the ITC Zones that do not materially affect facilities external to ITC as determined by SPP, and to participate in coordinated studies of requests that are determined to have such a material effect. ITC shall have the right to establish the terms and conditions of generator interconnection service, provided that FERC has accepted or approved ITC's procedures for such interconnection service. Until FERC's acceptance or approval of such procedures is obtained, on and after the Control Date, SPP's interconnection protocols shall govern ITC's provision of generator interconnection service within the ITC Zones, except to the extent provided in Section 5.2. In any event, however, where specified in a Transfer Agreement between ITC and an ITC Participant, such ITC Participant shall be the party to the interconnection agreement consistent with provisions of the SPP OATT. The Parties also recognize that FERC has issued a standard Generation Interconnection Agreement and intend that both ITC and SPP will fully comply with FERC's policy on generator interconnections.

## **ARTICLE 10**

### **MARKET AND OTHER MONITORING, PENALTIES**

10.1 On and after the Control Date, SPP, in accordance with FERC policy and directives, will conduct market monitoring within the ITC Zones consistent with the terms of Section 3.17 of the SPP Bylaws.

10.2 On and after the Control Date, SPP shall impose and collect penalties within the ITC Zones as currently provided in the SPP Agreement, SPP Bylaws, and the SPP OATT.

## **ARTICLE 11**

### **RATES AND REVENUE DISTRIBUTION**

11.1 ITC shall have the authority to establish rates and rate designs subject to the terms of the Transfer Agreements, including charges for the recovery of ITC's administrative costs and for transmission service within the ITC Zones, and to make unilateral applications to FERC under Section 205 of the FPA to change such rates and rate designs within the ITC Zones. ITC also shall have the authority to establish the amounts to be included in other rates for transmission services under the SPP OATT for the recovery of ITC's transmission revenue requirements.

11.2 On or after the Control Date, ITC shall be responsible for preparing monthly statements of amounts owed by customers for transmission services under the SPP OATT for deliveries to loads connected to the ITC System and for receiving payments from such customers. ITC shall remit to SPP all amounts due to SPP under Schedule ## to the SPP OATT and amounts due to third party transmission owners for transmission services under the SPP OATT not subject to the ITC rate schedule thereto.

11.3 To the extent that, notwithstanding Section 11.2 of this Appendix, any amounts are paid to SPP with respect to the provision, on and after the Control Date, by ITC or the ITC Participants of transmission service under the SPP OATT, SPP shall distribute all such amounts to ITC, in accordance with the SPP Agreement. ITC may take no unilateral action which interferes with or affects the revenue distribution provided for in the SPP Agreement or which interferes with the collection by SPP of the revenues due it for services it provides or arranges pursuant to the SPP OATT, unless such action by ITC has been accepted or approved by FERC.

#### 11.4 Rate and Tariff Term Dovetailing.

11.4.1 Except as otherwise provided in Section 11.2, on and after the Control Date, SPP shall charge the ITC Participants for all applicable transactions under the SPP OATT. In the development of regional rates, SPP shall use the ITC Zonal Rates as an input to the rate calculations.

11.4.2 Upon FERC acceptance or approval of the ITC rate design, SPP shall cooperate with ITC in its implementation, including facilitating the posting of the resulting charges for ITC rate schedule transmission services on ITC's page on the SPP OASIS.

11.5 SPP shall provide ITC with an electronic notice copy of the completed specification sheet provided with a firm transmission service request where either the Point of Delivery ("POD") or Point of Receipt ("POR") is within the ITC System. The copy shall be provided to ITC within a reasonably sufficient time for ITC to comment prior to SPP executing the service agreement. ITC shall make a good faith effort to provide SPP with any relevant information regarding the request. Absent comments from ITC, SPP may process the service request in a normal and timely manner without any undue delay.

11.6 SPP shall include ITC on the service list for all FERC filings of transmission service agreements where the POD or POR or both are located within the ITC System or where a network resource or network load is designated within the ITC System.

## **ARTICLE 12**

### **DISPUTE RESOLUTION**

12.1 Any dispute as to any matter not governed by the terms of the SPP OATT and arising under or in connection with this Appendix between or among ITC and SPP or any other Member shall be subject to the same dispute resolution procedures as are set forth in the SPP Bylaws.

## **ARTICLE 13**

### **PROVISIONS REGARDING INTEGRATION COSTS**

13.1 ITC and SPP will agree upon a plan for integration of any additional ITC Systems into SPP systems, and agree to minimize the costs associated with such integration.

## **ARTICLE 14**

### **INCLUSION OF ADDITIONAL FACILITIES BY ITC**

14.1 In the event that ITC acquires or otherwise operates transmission facilities not identified in Schedule 1 to this Appendix, such facilities shall not be deemed “Facilities” or become part of the “ITC System” unless ITC so chooses to designate or assign such facilities, such designation or assignment may occur on a case-by-case basis or on a continuous basis at ITC’s option. However, if these facilities are not identified in Schedule 1 to this Appendix but are within the SPP Reliability Region, these facilities will be under the authority of SPP as the Reliability Coordinator. In no event, however, shall any such facilities be deemed to be “Facilities” or become part of the “ITC System” unless they are located in or electrically interconnected to SPP systems.

## **ARTICLE 15**

### **CHANGES OR AMENDMENTS TO THIS APPENDIX**

15.1 This Appendix may not be amended or changed without the written agreement of the Parties and acceptance by FERC, as required, except that nothing in this Appendix shall be construed to restrict the unilateral right of ITC to make one or more applications to FERC pursuant to Section 205 of the FPA to change Schedule 5 hereto.

## **ARTICLE 16**

### **GENERAL RESPONSIBILITIES**

16.1 SPP and its directors, officers, employees, contractors and agents shall, at all times, adhere to the Standards of Conduct as required by the SPP Bylaws.

16.2 ITC will be subject to the SPP Agreement in the same manner as any other Transmission Owner.

## **ARTICLE 17**

### **ASSUMPTION OF LIABILITY**

17.1 SPP shall assume liability for any injury or damage to persons or property arising from SPP’s own acts or neglect, including the acts or neglect of its Representatives and contractors, and shall release, indemnify and hold harmless ITC from and against all damages,

losses, claims, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising from SPP's negligence or willful misconduct in the performance of its duties under this Appendix, except in cases where, and only to the extent that, the gross negligence or willful misconduct of ITC or its Representatives or contractors contributes to the claimed injury or damage.

17.2 ITC shall assume liability for any injury or damage to persons or property arising from its own acts or neglect, including the acts or negligence of its Representatives or contractors, and shall indemnify and hold harmless SPP from any damages, losses, claims, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or of third parties, arising from ITC's negligence or willful misconduct in performing its duties under this Appendix, except in cases where, and only to the extent that, the gross negligence or willful misconduct of SPP or its Representatives or contractors contributes to the claimed injury or damage. Nothing in this Appendix shall preclude ITC from seeking indemnification or recovery from the ITC Participants to the extent permitted in the Transfer Agreements.

17.3 ITC shall not be liable to SPP for any action taken at the direction of SPP, except in cases of the failure to comport with good business practice, good utility practice, or gross negligence of ITC.

17.4 If a Party (or its Representative(s) or contractor(s)) entitled to indemnification or assumption of liability by the other Party under this Appendix (an "Indemnitee") receives written notice of the assertion of any claim or of the commencement of any claim, action, or proceeding made or brought by any person or entity who is not a Party to this Appendix or any affiliate of a Party to this Appendix (a "Third Party Claim") with respect to which indemnification or assumption of liability is to be sought from the other Party (an "Indemnifying Party"), the Indemnitee will give such Indemnifying Party reasonably prompt written notice thereof, but in any event not later than thirty (30) days after the Indemnitee's receipt of written notice of such Third Party Claim. Such notice shall describe the nature of the Third Party Claim in reasonable detail. The Indemnifying Party will have the right to participate in or, by giving written notice to the Indemnitee, to elect to assume the defense of, any Third Party Claim at such Indemnifying Party's own expense and by such Indemnifying Party's own counsel, and the Indemnitee will cooperate in good faith and may participate in such defense at such Indemnitee's own expense.

17.5 If within ten (10) calendar days after an Indemnitee provides written notice to the Indemnifying Party of any Third Party Claim, the Indemnitee receives written notice from the Indemnifying Party that such Indemnifying Party has elected to assume the defense of such Third Party Claim as provided in the last sentence of Section 17.4, the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnitee in connection with the defense thereof; provided, however, that the Indemnitee may assume its own defense by giving written notice to the Indemnifying Party, and the Indemnifying Party will be liable for all reasonable expenses thereof, (i) if the Indemnitee at any time reasonably determines that there may be a conflict between the positions of the Indemnifying Party and of the Indemnitee in conducting the defense of any Third Party Claim, or that there may be legal defenses available to any Indemnitee different from or in addition to those available to the Indemnifying Party; or (ii) if the Indemnifying Party fails to take reasonable steps necessary to defend diligently such Third Party Claim within twenty (20) calendar days (unless waiting twenty (20) calendar days

would prejudice the Indemnitee's rights) after receiving notice from the Indemnitee that the Indemnitee believes the Indemnifying Party has failed to take such steps. If, within ten (10) calendar days after an Indemnitee has provided written notice to the Indemnifying Party of any Third Party Claim, the Indemnifying Party has not given written notice to the Indemnitee that such Indemnifying Party has elected to assume the defense of such Third Party Claim, the Indemnifying Party shall be liable for any legal expenses subsequently incurred by the Indemnitee in connection with the defense thereof. Without the prior written consent of the Indemnitee, the Indemnifying Party will not enter into any settlement of any Third Party Claim. If the Indemnifying Party desires to enter into a settlement of any Third Party Claim, and such settlement would neither (i) lead to liability or create any financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification or assumption of liability by the other Party hereunder, or (ii) reasonably be construed as an admission of culpability or liability by the Indemnitee or expected to create an adverse precedent which could undermine the Indemnitee's defense of or position with respect to any future claims by third parties; then, in such event, the Indemnifying Party will give written notice to the Indemnitee to that effect. If the Indemnitee fails to consent to such settlement within ten (10) business days after its receipt of such notice, the Indemnitee may assume or continue the defense of such Third Party Claim and, in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim will be the amount of such settlement offer, plus reasonable costs and expenses paid or incurred by the Indemnitee up to the date of such notice. Notwithstanding the foregoing, the Indemnitee shall have the right to pay, compromise, or settle any Third Party Claim at any time, provided that in such event the Indemnitee shall waive any right to indemnify or assumption of liability hereunder unless the Indemnitee shall have first sought the consent of the Indemnifying Party in writing to such payment, settlement, or compromise and such consent was either obtained or was unreasonably withheld or delayed, in which event no claim for indemnification or assumption of liability with respect thereto shall be waived.

17.6 Any claim by an Indemnitee under this Article 17 which does not result from a Third Party Claim (a "Direct Claim") will be asserted by giving the Indemnifying Party reasonably prompt written notice thereof, stating the nature of such claim in reasonable detail and indicating the estimated amount, if practicable (provided that such estimate shall in no event limit the amount which the Indemnitee is entitled to recover under this Article 17, but in any event not later than thirty (30) calendar days after the Indemnitee becomes aware of such Direct Claim, and the Indemnifying Party will have a period of thirty (30) calendar days within which to respond to such Direct Claim. If the Indemnifying Party does not respond within such thirty (30) calendar day period, the Indemnifying Party will be deemed to have accepted such Direct Claim. If the Indemnifying Party rejects such Direct Claim, the Indemnitee may seek enforcement of its rights under this Appendix.

17.7 If the amount of any loss or damages recoverable under this Article 17, at any time subsequent to the making of a payment in respect thereof, is reduced by recovery, settlement, or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement, or payment by or against any other entity, the amount of such reduction, less any costs, expenses, or premiums incurred in connection therewith (together with interest thereon from the date of payment thereof at the prime rate as published in *The Wall Street Journal*) will promptly be repaid by the Indemnitee to the Indemnifying Party. Upon making any indemnity payment, the Indemnifying Party will, to the extent of such indemnity payment, be subrogated to all rights of the Indemnitee against any third party in respect of the claim to



which the payment relates; provided, however, that until the Indemnitee recovers full payment of its loss or damages, any and all claims of the Indemnifying Party against any such third party on account of said payment are hereby made expressly subordinated and subjected in right of payment to the Indemnitee's rights against such third party. Without limiting the generality or effect of any other provision hereof, each such Indemnitee and Indemnifying Party will duly execute upon request all instruments reasonably necessary to evidence and perfect the above-described subrogation and subordination rights.

17.8 A failure to give timely notice as provided in this Article 17 will not affect the rights or obligations of any Party hereunder except if, and only to the extent that, as a result of such failure, the Party which was entitled to receive such notice was actually prejudiced as a result of such failure.

## **ARTICLE 18**

### **PUBLIC POWER PARTICIPATION**

This Section sets forth terms and conditions applicable to Non-jurisdictional ITC Participants.

18.1 Notwithstanding anything in this Appendix, a Non-jurisdictional ITC Participant is subject in all respects to the laws and regulations of the state of its creation and to rate schedules adopted by its governing board under state law. In the event of a conflict between such state law, regulations or rate schedules with provisions of this Appendix, such state law, regulations or rate schedules shall govern with respect to the application of decisions and actions by the Parties under this Appendix to said Non-jurisdictional ITC Participant.

18.2 Transfer Agreement Conflicts. Any conflict or inconsistency between the SPP OATT and the Transfer Agreement between ITC and the Non-jurisdictional ITC Participant shall be governed by and decided pursuant to the provisions of the Transfer Agreement.

18.3 ITC and SPP shall not take any action under this Appendix that conflicts with the provisions of the Transfer Agreement with ITC and the Non-jurisdictional ITC Participant. Any conflict or inconsistency between this Appendix and the Transfer Agreement between ITC and the Non-jurisdictional ITC Participant shall be governed by and decided pursuant to the provisions of the Transfer Agreement.

## **ARTICLE 19**

### **CONFIDENTIALITY**

19.1 Identification of Confidential Information. Each Party acknowledges the importance to the other Party of preserving the confidentiality of the Confidential Information and that both the Disclosing Party and the Recipient will comply with this Article 19 in furnishing Confidential Information to a Recipient in connection with the matters contemplated by this Appendix.

19.2 Non-Disclosure to Third Parties. The Recipient shall treat all Confidential Information as the proprietary, sensitive and strictly confidential information of a Disclosing Party, and shall not reveal, divulge or disclose any Confidential Information, at any time or for any reason, to any person or entity, except to the Representatives of such Recipient who have a need to know such Confidential Information for the purposes authorized in this Appendix; provided that such Representatives have been advised and instructed by such Recipient that the Confidential Information is and is to be treated as strictly confidential in accordance with this Appendix. The Recipient shall safeguard the Confidential Information at least to the same extent that it would its own proprietary, sensitive, and confidential information. The Recipient will instruct all of its Representatives to maintain the confidentiality of all Confidential Information and will be responsible for any breach of any obligation set forth in this Article 19 that is caused by any of them.

19.3 Limited Exception Permitted Disclosure of Confidential Information. Notwithstanding the foregoing provisions of Section 19.2, the Recipient may disclose Confidential Information to the extent but only to the extent (a) expressly approved by the Disclosing Party in writing or (b) required by law, a court, or a governmental authority (each, an "Authority"), but only if (i) the Recipient attempts to notify the Disclosing Party as far in advance as practicable prior to making disclosure of its intent to disclose Confidential Information and of the content and mode of communication of the disclosure, and (ii) the Recipient cooperates with the Disclosing Party's efforts to obtain a protective order protecting the Confidential Information from disclosure. In addition, if disclosure is required by an Authority, the Recipient to the extent practicable, will (A) promptly notify the Disclosing Party of the circumstances surrounding the requirement, (B) consult with the Disclosing Party on the advisability of taking legally available steps to resist or narrow the request or requirement, and (C) disclose such Confidential Information only after using all reasonable efforts to comply with clauses (A) and (B) and after cooperating with the Disclosing Party's reasonable efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to any portion of the Confidential Information designated for such treatment by the Disclosing Party. If such protective order or other assurance is not obtained, the Recipient will furnish only that portion of the Confidential Information that is required, and will seek, to the extent reasonable under the circumstances, to obtain assurances that confidential treatment will be accorded to the Confidential Information by the party(ies) to whom the Recipient is required to disclose. Anything in this Appendix to the contrary notwithstanding, a Recipient may disclose Confidential Information to FERC; provided such disclosure relates to FERC's evaluation or consideration of matters contemplated by this Appendix and provided that the Recipient seeks to the maximum extent permitted by law and by FERC's regulations to compel FERC to keep the information confidential.

19.4 Ownership and Use of Confidential Information. All Confidential Information delivered by a Disclosing Party to a Recipient pursuant to this Appendix shall be and remain the property of the Disclosing Party, and such Confidential Information shall be promptly destroyed or returned to the Disclosing Party upon request or the termination of this Appendix. Promptly after performing its obligations under the preceding sentence, the Recipient will, upon request, furnish the Disclosing Party with a certificate executed by an officer, certifying such destruction or return. That portion of the Confidential Information that may be found in analyses, compilations, studies or other documents prepared by or for a Recipient and all Confidential Information that is oral will be kept by the Recipient subject to the terms of this Appendix or

destroyed. Neither the Recipient nor any of its Representatives shall use the Confidential Information for any purpose whatsoever except to consider, evaluate or effectuate matters or services contemplated by this Appendix.

19.5 Term. The obligations of the Parties under this Article 19 shall survive the termination of this Appendix and shall remain binding for a period of two (2) years thereafter; provided, however, that a Recipient's obligations under Section 19.2 with respect to any trade secrets or other proprietary information that are clearly and conspicuously identified as such by the Disclosing Party at the time of disclosure and under the third sentence of Section 19.4 shall continue, without limitation, and nothing in this Section 19.5 shall limit or be construed to limit the term of protection of any laws otherwise protecting such Confidential Information under intellectual property laws.

19.6 Disclaimer of Warranties. Although each of the Parties hereby agrees to use reasonable efforts to include in Confidential Information furnished to the other Party data and information believed by it to be relevant to the discussions, consideration and effectuation, if any, of any actions or matters contemplated by this Appendix, each Party hereby disclaims and does not make hereby any express or implied representation or warranty concerning the accuracy or completeness of any Confidential Information, and no Disclosing Party shall have liability to a Recipient for Recipient's use of any Confidential Information of the Disclosing Party. In addition, determination of the amount of Confidential Information to be disclosed resides solely with the Disclosing Party and disclosure of information of any nature shall not obligate the Disclosing Party to disclose any further Confidential Information.

19.7 No License. No license to a Party, under any trademark, patent, copyright or other intellectual property right is either granted or implied by the conveying of Confidential Information to such Party. None of the Confidential Information which may be disclosed or exchanged by the Parties shall constitute any representation, warranty, assurance, guarantee or inducement by any Party to the other Parties of any kind, and, in particular, with respect to the non-infringement of trademarks, patents, copyrights, or any other intellectual property rights, or other rights of third persons.

19.8 Intellectual Property. No Party shall use or display any logo, tradename, trademark, service mark or other intellectual property of any other Party without prior written consent. Any use or display by a Party of any logo, tradename, trademark, service mark or other intellectual property of another Party shall be deemed to be pursuant to a non-exclusive, non-transferable, non-assignable license to use such item, which license will terminate upon any termination of this Appendix, and shall in no way be construed to mean that the Party has acquired any ownership interest therein.

## **ARTICLE 20**

### **MISCELLANEOUS**

20.1 Binding Effect. The obligations of the Parties shall be binding on and inure to the benefit of their respective heirs, successors, assigns, and affiliates.

20.2 Integration, Amendment, and Waiver. This Appendix (together with the Schedules attached hereto) constitutes the Parties' entire agreement concerning the subject

matter hereof and may be amended or modified only by a subsequent agreement in writing and executed by both Parties. A waiver, discharge, amendment, modification, or termination of this Appendix or any provision hereof, shall be valid and effective only if in writing and executed by both Parties. A written waiver of a right, remedy or obligation under a provision of this Appendix will not constitute a waiver of the provision itself, a waiver of any succeeding right, remedy or obligation under the provision, or a waiver of any other right, remedy, or obligation under this Appendix. Any delay or failure by a Party in enforcing any obligation or in exercising any right or remedy shall not operate as a waiver of it or affect that Party's right later to enforce the obligation or exercise the right or remedy, and a single or partial exercise of a right of remedy by a Party does not preclude any further exercise of it or the exercise of any other right or remedy of that Party.

20.3 Severability. If any provision of this Appendix is held by a court of competent jurisdiction to be invalid, void or unenforceable in any respect or with respect, such provision in all other respects and the remaining provisions of this Appendix, shall nevertheless continue in full force and effect without being impaired or invalidated and shall be enforced to the full extent permitted by law.

20.4 Counterparts. This Appendix may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

20.5 Notices. Every notice, consent or approval required or permitted under this Appendix shall be valid only if in writing, delivered personally or by mail, confirmed telefacsimile, or commercial courier, and sent by the sender to each other Party at its address or number below, or to such other address or number as each Party may designate by notice to the other Party. A validly given notice, consent or approval will be effective when received if delivered personally or by telefacsimile, or commercial courier, or certified mail with return receipt requested, postage prepaid.

If to ITC, to:

Attention:      Fax No.:

If to SPP, to:

Southwest Power Pool, Inc.  
415 North McKinley, Suite 800  
Little Rock, AR 72205  
Attention: Nick Brown, Senior VP and Corporate Secretary  
Fax No.: (501) 664-9553

20.6 Governing Law. This Appendix shall be construed and enforced according to the laws of the State of Arkansas (other than the choice of law provisions thereof), except to the extent preempted by the federal law of the United States of America.

20.7 Construction. As used in this Appendix, the words “herein,” “hereof and “hereunder” and other words of similar import refer to this Appendix as a whole and not to any particular article, section, paragraph, or other subdivision. Unless the context of this Appendix otherwise requires, (a) words of any gender will be deemed to include each other gender; (b) words using the singular or plural number will also include the plural or singular number, respectively; (c) the terms or “Section” or “subparagraph” will refer to the specified Section or subparagraph of this Appendix; (d) the term “or” will mean “and/or”; and, (e) the headings of the sections of this Appendix are inserted for convenience only and shall not be deemed to constitute part of this Appendix or to affect its construction.

20.8 Injunctive Relief. If a Recipient breaches or threatens to breach any of its obligations contained in Article 19 of this Appendix, the Disclosing Party of the pertinent Confidential Information will be deemed to be irreparably harmed and entitled to seek the issuance of a temporary restraining order or preliminary injunction enforcing this Appendix, and to judgment for damages caused by breach, and to any other remedies provided by applicable law. The non-breaching Party shall also be entitled to recover its attorneys’ fees and costs incurred as a result of such breach.

20.9 Assignment. Neither Party may assign its rights or obligations under this Appendix without the prior written consent of the other Party, which consent shall not be unreasonably withheld, except that (a) ITC may assign its rights and obligations hereunder without such consent to any successor entity by reason of a merger, consolidation, reorganization, sale of assets, spin-off, foreclosure or other transaction, as a result of which substantially all of the Facilities are acquired by such successor; and (b) SPP may assigns its rights and obligations hereunder without such consent to any successor entity by reason of a merger, consolidation, reorganization, sale of assets, spin-off, foreclosure or other transaction, as a result of which substantially all of the assets of SPP are acquired by such successor.

20.10 Independent Contractors. The Parties hereto acknowledge and agree that in the performance of their respective duties and obligations hereunder they are acting as independent contractors of each other, and neither Party shall represent that an employer/employee, partnership, joint venture, or agency relationship exists between them or between ITC or other Member, nor shall either Party have the power nor will either Party represent that it has the power to bind the other Party hereto to any contract or agreement.

20.11 Further Assurances. Upon the reasonable request of the other Party, each Party hereto agrees to take any and all such actions as are necessary or appropriate to give effect to the terms set forth in this Appendix and are not inconsistent with the terms hereof.

20.12 Third-Party Joint Agreements. This Appendix shall not be construed, interpreted, or applied in such a manner as to cause ITC to be in material breach, anticipatory or otherwise, of any agreement (in effect on the Effective Date) between ITC and one or more third parties for the joint ownership, operation, sharing (including costs, responsibilities and/or revenues) or maintenance of any electrical facilities covered by this Appendix. ITC shall discuss with SPP any material conflict between any such third-party joint agreement and this Appendix raised by a third party to such joint agreement, but the resolution of such a conflict shall be and remain within the sole discretion of ITC; provided, however, that ITC shall, if otherwise unresolved, utilize available remedies and dispute resolution procedures to resolve such conflict, including,

but not limited to, submitting such conflict to FERC for resolution; provided, further, that in no event shall ITC enter into a resolution of such conflict which would impair the reliability of the Electric Transmission System.

20.14 Inclusion in Filings. SPP agrees ITC may include a copy of this form of Appendix in filings with any regulatory agency or any court of law having jurisdiction over ITC.

20.15 No Restrictions on Additional Filings. Except as expressly provided herein, this Appendix does not restrict SPP's rights to submit any authorized filings with the FERC, including changes to the SPP OATT. Similarly, this Appendix does not restrict the rights of ITC to submit any authorized filings with the FERC, including changes to the ITC rate schedule to the SPP OATT or to protest filings by SPP.

20.16 Solicitation. This Appendix does not restrict the ITC Participants' rights to solicit other electric transmission-owning entities from joining the ITC project; provided, however, that this Appendix also does not affect the rights of SPP to accept or reject the inclusion of any new ITC Participant's Facilities pursuant to the terms of the SPP Agreement and the SPP Tariff.

20.17 No Obligation. This Appendix does not obligate ITC to execute the SPP Agreement or reach alternate contractual relations if the conditions in Article 2 are not satisfied, and does not obligate any ITC Participant to execute the SPP Agreement whether or not such party withdraws from ITC (with notice). However, any decision of any ITC Participant to leave ITC shall not operate to relieve the Participant Member of its obligations under the SPP Agreement prior to the Control Date.

IN WITNESS WHEREOF, the Parties have executed this APPENDIX X INDEPENDENT TRANSMISSION COMPANY as of the date first above written.

**SOUTHWEST POWER POOL, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ITC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **Schedule 1**

### **List of Transmission Facilities**

## **Schedule 2**

### **Reliability Coordination Service**

The reliability of the ITC System shall be the responsibility of SPP.

ITC is responsible for operating the control areas and/or SLBAs within the ITC System in a secure and reliable manner, and in accordance with the requirements of this Schedule 2. ITC shall operate the control areas and/or SLBAs within the ITC System in coordination with SPP.

SPP shall honor the terms of any sub-control area (or like arrangement) entered into by the ITC Participants in their respective zones that predates this Appendix, and shall work with any such sub-control area to arrange for ongoing coordination of SPP's reliability coordinator function with such sub-control area as necessary. SPP and ITC shall work in good faith to implement the planned consolidation of the existing control areas on the ITC System and creation of SLBAs within such control area.

SPP shall be the Reliability Coordinator for the ITC System. In this role, SPP shall conduct reliability monitoring and emergency response services as referenced in this Schedule.

The rights and obligations of SPP and ITC with regard to the reliability monitoring and emergency response aspects of Reliability Coordination Service shall be identical to the relative rights and responsibilities of SPP and its Transmission Owners as set out the SPP Agreement.



**Schedule 3**

**List of ITC Participants**

## **Schedule 4**

### **Delineation of Functions**

## **Schedule 5**

### **ITC Planning Process**

**SCHEDULE 4**

DELINEATION OF FUNCTIONS [Marked to show changes proposed to SPC]

<b>Responsibility</b>	<b>RTO: SPP</b>	<b>ITC: ITC</b>	<b>Functions performed by SPP</b>	<b>Functions performed by ITC as delegated or assigned by SPP</b>	<b>Functions performed by ITC</b>
<b>Tariff Administration</b>	Single tariff administered by the RTO.	Unilateral filing rights under Section 205 for revenue requirements including rate design and incentive rates within its footprint, after consultation with the RTO; separate schedules, but not separate tariff.	<p>Approval of all transmission service except those that sink and source in the ITC System, respecting all flowgates processed within OASIS Automation.</p> <p>Calculation and settlement of all transmission service except those that sink and source in ITC and those that sink in ITC when requested by customer.</p>	Approval of transmission service that sink and source in ITC, respecting all flowgates processed within OASIS Automation. Supply data regarding such transactions to the SPP.	<p>ITC maintains separate schedule in SPP Tariff for different rates and rate design.</p> <p>ITC has unilateral Section 205 filing right to establish revenue requirements, file rates, and rate structure changes for base transmission charges for service to load within the ITC System.</p> <p>Settlement of all ITC special services and products offered.</p> <p>Calculation and settlement of transmission service that sources and sinks in ITC.</p> <p>Settlement to SPP for any revenues due SPP from ITC collections.</p>

Responsibility	RTO: SPP	ITC: ITC	Functions performed by SPP	Functions performed by ITC as delegated or assigned by SPP	Functions performed by ITC
<b>Congestion Management</b>	Responsible for implementing congestion management.	No separate Day One Congestion management other than redispatch for reliability; will participate in the development of Day Two congestion management.	<p>Implements TLR for all SPP footprint.</p> <p>Implements market based congestion management for all SPP footprint.</p> <p>Operates single energy market for SPP footprint.</p>		ITC supplies options for ITC System ITC takes financial responsibility for all actions that it contracts for.
<b>OASIS</b>	Single OASIS node.	Site page for ITC service under RTO OASIS node.	<p>OASIS maintenance.</p> <p>Provide link to page for ITC to offer special services or products.</p> <p>Manage the Transmission Service Request queue for all requests</p> <p>Respond to all Transmission Service Requests except those that source and sink in ITC System.</p>	Respond to Transmission Service Requests that source and sink in ITC System.	<p>ITC supplies information, subject to SPP review, for updates to SPP OASIS site page used by ITC.</p> <p>Populate ITC OASIS link with transmission pricing, ancillary services prices, and special services or products. [Need to note that ancillary services prices not exclusively on ITC page]</p>

<b>Responsibility</b>	<b>RTO: SPP</b>	<b>ITC: ITC</b>	<b>Functions performed by SPP</b>	<b>Functions performed by ITC as delegated or assigned by SPP</b>	<b>Functions performed by ITC</b>
<b>ATC/TTC</b>	<p>RTO calculates ATC and assures consistency.</p> <p>RTO provides inputs for CBM and TRM.</p>	<p>Determines TTC using RTO formulas and methodology.</p> <p>Calculates TTC, CBM, TRM, based on validated calculation and transmits data to SPP for ATC/AFC calculation.</p>	<p>Calculates AFC and ATC using ITC data.</p> <p>Validates CBM, TRM, and TTC calculation.</p> <p>Provides OASIS reservations and schedules to ITC.</p> <p>Calculates AFC/ATC for all SPP footprint.</p>	<p>Provides all ITC schedules to SPP.</p>	<p>Calculates TTC, CBM, TRM based on validated methods.</p> <p>Provides ratings and parameters for ITC transmission facilities to be used in AFC/ATC calculation based on validated methodology.</p> <p>Coordinates with SPP in determining policy for calculating TTC, AFC/ATC, CBM, and TRM.</p>
<b>Operational Authority</b>	<p>Operates into, out of, and through transactions.</p>	<p>Schedules and physically operates transmission with source and sink inside footprint.</p>	<p>Approves and implements all schedules in SPP footprint as the Transmission Provider, except for schedules that source and sink in ITC.</p> <p>Will have ultimate authority for any disputes with all approvals or schedules.</p>	<p>ITC will coordinate actions with SPP and will respect any impacts on SPP flowgates.</p> <p>Approves and implements schedules that source and sink in ITC as the Transmission Provider.</p>	<p>Monitors, approves and implements all schedules with source and sink in ITC as the operator of the Control Areas in the ITC System. [Alternative is to adopt GridAmerica provision which permits GridAmerica to “pre-screen” transactions which source and/or sink in ITC footprint.]</p>

<b>Responsibility</b>	<b>RTO: SPP</b>	<b>ITC: ITC</b>	<b>Functions performed by SPP</b>	<b>Functions performed by ITC as delegated or assigned by SPP</b>	<b>Functions performed by ITC</b>
<b>Reliability, Security and Coordination</b>	Responsible for reliability for entire region.	Takes corrective action for reliability inside footprint under RTO supervision.	Monitors all critical transmission facilities in SPP footprint.  Monitors and approves ITC actions.	Monitors critical transmission facilities in ITC System.  Perform the security-analysis for the ITC System and identify and implement actions to maximize use of the ITC System subject to SPP supervision and oversight.	Monitors ITC System and implement corrective action, including emergency response redispatch and/or ITC System schedule curtailment as needed, under SPP supervision.  Designate must-run units in ITC System as needed for emergency response.  Commences generation redispatch, notification of RTO, and curtailment of transmission service scheduled with ITC to maintain reliability under emergency conditions.
<b>Parallel Path Flows</b>	Manages parallel path flow in entire region.	Assists in the management of parallel path flow, especially during emergencies.	Monitors all critical transmission facilities for parallel path flow and provides remedial action when needed.  Directs ITC in management during emergencies.	Monitors all critical and non-critical transmission facilities in ITC System for parallel path flow at any time.  Addresses emergency conditions arising from parallel path flow in ITC System.	Implements actions for parallel path flow remediation when delegated by SPP.

<b>Responsibility</b>	<b>RTO: SPP</b>	<b>ITC: ITC</b>	<b>Functions performed by SPP</b>	<b>Functions performed by ITC as delegated or assigned by SPP</b>	<b>Functions performed by ITC</b>
<b>Ancillary Services</b>	Provider of last resort for ancillary services other than scheduling, system control and dispatch; voltage control; and regulation.	<p>Provides scheduling, system control and dispatch; voltage control; and regulation.</p> <p>ITC may provide non-real time imbalance energy and ancillary services upon a showing of a no harm to the SPP Ancillary Service and imbalance energy markets.</p>	<p>Provider of last resort for ancillary services and imbalance energy to transmission customers taking service under ITC schedule.</p> <p>As Provider of Last Resort (PLR), can designate ITC as provider of Ancillary Services.</p> <p>Validates provision of ancillary services by ITC to meet tariff requirements.</p>	<p>Monitors provision of ancillary services in ITC System.</p> <p>Establishes Ancillary Services Tariff for the provision of: (4) imbalance energy service; and (5) &amp; (6) operating reserve services (spinning and supplemental).</p> <p>Until SPP operates an energy market that provides financial settlements of imbalance energy, ITC will be PLR for Schedule 4 for load within ITC.</p> <p>Until there is a common reserve sharing agreement, ITC will be PLR for Schedules 5 and 6 for load within ITC</p>	<p>Authorized to provide Ancillary Services 1 through 3, including scheduling, system control, dispatch service; voltage control; and regulation services in ITC System.</p> <p>Establishes Ancillary Services Tariff for the provision of authorized Ancillary Services 1 through 3.</p> <p>Encourage customers to self-supply ancillary services and imbalance energy.</p> <p>May offer imbalance energy or ancillary services, or have a non-real time energy market as long as these actions do not harm competition of SPP Ancillary Service or Imbalance Energy Markets.</p> <p>Proposes and implements approved provision of ancillary services allowed. Any financial obligations that are in addition to standard tariff terms will be borne by ITC in accordance with any contract terms that are negotiated</p>



<b>Responsibility</b>	<b>RTO: SPP</b>	<b>ITC: ITC</b>	<b>Functions performed by SPP</b>	<b>Functions performed by ITC as delegated or assigned by SPP</b>	<b>Functions performed by ITC</b>
<b>Planning and Expansion</b>	<p>Authority for region.</p> <p>Directs expansions as required.</p> <p>Develop joint planning protocol.</p>	<p>Responsible for planning and expansion of its own system, but, the SPP has ultimate authority when there are material impacts outside of ITC.</p> <p>Develop joint planning protocol.</p>	<p>Approval of ITC planning in ITC System when plans have material affect in non-ITC SPP footprint.</p> <p>SPP has final word on planning and expansion.</p> <p>Administer single RTO queue for generation interconnection requests, in accordance with pro forma interconnection procedures and agreements applicable to RTO.</p>	<p>Participate in joint studies, as coordinated by SPP.</p>	<p>Develop plans for expansion in ITC System.</p> <p>Conduct system impact and facilities studies, as coordinated by SPP.</p>
<b>Market Monitoring</b>	<p>Monitors market for entire region.</p>	<p>No specific duties.</p>	<p>Provides independent market monitoring in SPP footprint.</p>	<p>No delegation of this responsibility is possible under FERC guidelines. SPP may, for data gathering or other specific tasks, request that these be performed by ITC.</p>	
<b>Interregional Coordination</b>	<p>Responsible for coordination with other regions</p>	<p>No specific duties.</p>	<p>SPP works to implement seamless markets between neighboring RTOs.</p>		<p>ITC works to implement seamless markets within SPP.</p>

<b>Responsibility</b>	<b>RTO: SPP</b>	<b>ITC: ITC</b>	<b>Functions performed by SPP</b>	<b>Functions performed by ITC as delegated or assigned by SPP</b>	<b>Functions performed by ITC</b>
<b>Maintenance Outages</b>	RTO approves maintenance for critical transmission facilities.	Coordinates maintenance of generators and establishes maintenance and outage schedules for transmission facilities in its area, subject to coordination with RTO. Obtains approval for critical transmission facilities.	Identifies all critical transmission facilities for SPP footprint. Approves all outages except generator and non-critical transmission facilities in ITC.	Gathers all transmission outages.	Submit outage schedules for all transmission facilities 100 kV and above and generation facilities 10 MW and above in ITC to the SPP. Critical transmission facility maintenance is subject to SPP approval.  Approves maintenance for all non-critical transmission facilities and coordinates maintenance for all generator facilities in ITC.
<b>Losses</b>	Single method / system.	No responsibilities authorized at this time.	SPP provides losses for application in scheduling and settlement by ITC in ITC System.	Uses SPP provided losses for scheduling and settlement in ITC System.	

**Southwest Power Pool  
Staff Recommendation  
To the Board of Directors  
August 16, 2003**

**Assessment and Tariff Schedule 1 Rates**

**Background**

The Board of Directors approved modifications to the SPP assessment methodology at its June 23, 2003 meeting. These modifications, scheduled for implementation beginning October 1, 2003, are intended to distribute SPP's administrative costs among the membership in a fashion consistent with the manner costs would be allocated if all eligible load serving entities within SPP served their load via Network Integration Transmission Service under the SPP regional tariff.

**Analysis**

SPP's net administrative budget for the fourth quarter of 2003 totals \$6,494,025. Fourth quarter billing determinants utilizing average 2002 12-month coincident peaks and estimated point-to-point service totals 62,254,978MWh. Dividing budgeted expenditures by billing determinants yields a rate of \$0.1043/MWh.

**Recommendation**

SPP staff recommends establishing the schedule 1 rate under the SPP regional tariff at \$0.1043/MWh for Network Integration Transmission Service and Point-to-Point transmission service sold under the tariff during the fourth quarter of 2003. Additionally, staff recommends utilizing a rate of \$0.1043/MWh for purposes of determining SPP member assessments during the fourth quarter of 2003.

**Approved:**

**Action Requested:** Approve Recommendation

**SPP ADMINISTRATIVE BUDGET OCT. 2003 - DEC. 2003**

	October-03	November-03	December-03	Total
<b>Salaries and Benefits</b>	\$1,047,357	\$1,559,989	\$1,080,640	\$3,687,986
<b>Travel</b>	\$67,630	\$67,190	\$55,920	\$190,740
<b>Administrative</b>	\$56,795	\$23,095	\$31,095	\$110,985
<b>NERC Assessment</b>	\$185,600	\$0	\$0	\$185,600
<b>SPP/NERC Meetings</b>	\$36,275	\$27,225	\$9,075	\$72,575
<b>Communications</b>	\$145,289	\$143,215	\$143,216	\$431,720
<b>Leases/Maintenance</b>	\$215,862	\$213,762	\$367,862	\$797,486
<b>Capital Expenditures</b>	\$278,200	\$63,200	\$86,200	\$427,600
<b>Outside Services</b>	\$382,511	\$264,311	\$317,511	\$964,333
<b>Miscellaneous Income</b>	(\$125,000)	(\$125,000)	(\$125,000)	(\$375,000)
	<b>\$2,290,519</b>	<b>\$2,236,987</b>	<b>\$1,966,519</b>	<b>\$6,494,025</b>

**Assessment Rate per MWh Peak** **\$0.1043133**

<b>EDME</b>	\$66,071	\$63,940	\$66,071	\$196,082
<b>INDN</b>	\$16,130	\$15,609	\$16,130	\$47,869
<b>KACP</b>	\$198,634	\$192,227	\$198,634	\$589,495
<b>KACY</b>	\$30,048	\$29,078	\$30,048	\$89,174
<b>Westar</b>	\$281,857	\$272,765	\$281,857	\$836,479
<b>KEPCO</b>	\$15,030	\$14,545	\$15,030	\$44,606
<b>MIDW</b>	\$13,142	\$12,718	\$13,142	\$39,002
<b>SPRM</b>	\$39,975	\$38,686	\$39,975	\$118,636
<b>AREC</b>	\$38,920	\$37,665	\$38,920	\$115,506
<b>GRRD</b>	\$48,498	\$46,933	\$48,498	\$143,929
<b>OKGE</b>	\$335,252	\$324,437	\$335,252	\$994,942
<b>OMPA</b>	\$31,962	\$30,931	\$31,962	\$94,855
<b>AEP</b>	\$452,775	\$438,169	\$452,775	\$1,343,719
<b>NTEC</b>	\$40,822	\$39,506	\$40,822	\$121,150
<b>ETEC</b>	\$4,857	\$4,700	\$4,857	\$14,414
<b>TexLa</b>	\$6,713	\$6,497	\$6,713	\$19,923
<b>SWPS</b>	\$244,087	\$236,213	\$244,087	\$724,388
<b>WEFA</b>	\$70,013	\$67,755	\$70,013	\$207,781
<b>Point-to-Point Revenues</b>	\$256,117	\$236,901	\$259,058	\$752,076
<b>Total Assessment &amp; Tariff Revenue</b>	<b>\$2,190,904</b>	<b>\$2,109,276</b>	<b>\$2,193,845</b>	<b>\$6,494,025</b>
<b>Excess/(Shortfall) vs. Budget</b>	(\$99,615)	(\$127,711)	\$227,326	
<b>Cumulative Excess/(Shortfall)</b>	(\$99,615)	(\$227,326)	\$0	

**Southwest Power Pool  
Market Working Group and Business Practices Working Group  
Report to the Board of Directors**

**August 26, 2003**

**Background**

On June 24, 2003, the Strategic Planning Task Force Secondary Report was presented and accepted by the Board of Directors, containing a recommendation that new SPP organizational groups be formed including the Market Working Group and the Business Practices Working Group. These groups are critical to some of the other initiatives of SPP. Pursuant to SPP Bylaws section 3.1 the Board of Directors appoints member representatives based on the scope of the group and the personnel's expertise and qualifications. SPP Staff requested nominations for these two working groups and the following are the recommended members. Also, in section 3.3.1, the Board of Directors is to appoint to these working groups. Included are recommendations for the leadership of each group.

**Proposed Rosters**

Market Working Group

Richard Ross (AEP) is nominated as Chair  
Keith Sugg (AECC) is nominated as Vice Chair

Transmission Owners

Wes Berger	Xcel Energy/SPS
Burton Crawford	KCPL
Stan Mason	SWPA
Doug Base	WFEC
Bill Wylie	OGE
Richard Ross	AEP
Tom Stuchlik	Westar Energy

Transmission Users

James Stanton	Calpine Corp
David Toole	Cargill Power Markets
Tambra Offield	East Texas Electric Coop
Tom Saitta	Aquila
Gene Anderson	OMPA
John Stephens	City of Springfield
Keith Sugg	AECC

Business Practices Working Group

Mike McGeeney (KCPL) is nominated as Chair  
Mark Foreman (Tenaska) is nominated as Vice Chair

Mark Foreman	Tenaska
David Toole	Cargill
Wilma Chen	Coral
Howard Taylor	Calpine
Grant Wilkerson	WR
Darrell Anthony	OKGE
Mike McGeeney	KCPL
Sam Ellis	EDE

Alternate: Tracey Hannon SPA

4 people represent merchant group or power supply affiliates of SPP TOs as required by the charter.

**Recommendation**

Approve the Market Working Group and Business Practices Working Group and Staff recommend that the Board of Directors approve the rosters as presented.

**Action Requested** Approve Recommendation