

**IS PARTIES –
REMAINING ISSUES
REGARDING GOVERNANCE
DOCUMENT LANGUAGE**

APRIL 25, 2014

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**Helping our members
work together to
keep the lights on...
today and in the future**



Issues Remaining after April 11 Teleconference

FOUR MINISTERIAL ISSUES

TWO SUBSTANTIVE ISSUES

Four Remaining Ministerial Issues

1. **Definitions of “Basin Amendments,” “Heartland Amendments,” and “Eastern Interconnection”**
 - Membership Agreement at 1.0
 - “Western Interconnection” will be defined once RTWG has settled on language

2. **Penalty language provision renumbered to facilitate later deletion if necessary**
 - Western Amendments: A1.7 moved to end as A1.11

3. **Scope of “Federal participation provisions” clarified**
 - Western Amendments at A1.1

Remaining Ministerial Issues, continued.

4. The “as later amended” concept is removed due to the concept’s capture in the defined terms for the amendments.
 - Western Amendments at A1.10 (formerly A1.11)
 - Basin/Heartland Amendments at A2
 - Bylaws at 8.75(a)
 - Membership Agreement at 1.0 and 4.2.2(b)(v)

Two Remaining Substantive Issues

- 1. The concept of penalty amounts “allocated” to Western is added to the existing concept of penalty amounts “attributable” to Western.**
 - Western Amendments at A1.11 (as renumbered)
 - Bylaws at 8.75(b)
- 2. Scope clarified for revisions that trigger Basin and Heartland withdrawal rights**
 - i.e. Newly defined “Amendments” terms narrow scope of which changes trigger withdrawal rights
 - Basin/Heartland Amendments at A2
 - Membership Agreement at 4.2.2(b)(v)

AMENDMENTS TO SPP MEMBERSHIP AGREEMENT FOR THE WESTERN AREA POWER ADMINISTRATION-UPPER GREAT PLAINS REGION

A1. Participation by the Western Area Power Administration-Upper Great Plains Region

A1.1 Subject to Acts of Congress

The participation by the United States through the Western Area Power Administration-Upper Great Plains Region ("Western-UGP") in this Agreement is subject in all respects to acts of Congress and to regulations of the Secretary of Energy established thereunder, and to rate schedules promulgated by the Secretary of Energy. This reservation includes, but is not limited to, the statutory limitations upon the authority of the Secretary of Energy to submit disputes arising under this Agreement to arbitration. In the event of a conflict between these Federal participation provisions set forth in this Section A1 and any other provision of this Agreement, these Federal participation provisions shall have precedence with respect to the application of this Agreement to the United States.

A1.2 Federal Service Exemption

Western-UGP was established on December 21, 1977, pursuant to Section 302 of the Department of Energy Organization Act, Public Law 95-91, dated August 4, 1977. By law, the Department of the Army (Corps) or the U.S. Bureau of Reclamation (Bureau of Reclamation) provide Federal power resources to its project use customers. By law, Western-UGP markets Federal power resources to its firm electric service customers. These are both considered Statutory Load Obligations that will be provided for under the Western-UGP Federal Service Exemption. Western-UGP's transmission system was built primarily to enable the delivery of Federal power to satisfy these obligations. Use of transmission facilities that Western-UGP owns, operates, or to which it has contract rights for delivery of Federal long-term firm capacity and energy to project use and Western-UGP's preference power customers is a Western-UGP responsibility under the terms and conditions of its marketing plan and electric service contracts implementing statutory obligations to market Federal power. This is complementary with the provisions of transmission service under the Agreement. Capacity in transmission facilities provided by Western-UGP under this Agreement is solely for the use of Available Transfer Capability in excess of the capability Western-UGP requires for the delivery of long-term firm capacity and energy to Statutory Load Obligations. Western-UGP retains the Available Transfer Capability from its Federal Power-Western-UGP in the UMZ to deliver to its Statutory Load Obligations

A1.2.1 Western-UGP shall be exempt from Schedule 11 Region-wide Charges (for both regionally shared facilities external to the UMZ and those internal to the UMZ) for Western-UGP's delivery of Federal generation to Western-UGP's Statutory Load Obligations. Any SPP ordered regionally shared projects within the UMZ to address SPP system-wide requirements will not impact Western-UGP's transmission charges to its Statutory Load Obligations. SPP will not

assess any Schedule 11 Region-wide Charge, associated with transmission facilities in the Eastern Interconnection, to the extent that load that is located in the Western Interconnection is served by resources in the Western Interconnection.

A1.2.2 Western-UGP shall be exempt from SPP congestion and financial marginal loss charges for deliveries from Federal resources across the UMZ to Western-UGP's Statutory Load Obligations. Western-UGP shall be responsible for providing the Transmission Provider average losses for the energy delivered under the Federal Service Exemption across the UMZ.

A1.3 Compliance with Section 1232(c) of the Energy Policy Act of 2005

The parties have made modifications to this Agreement, the Bylaws, and the OATT to enable Western-UGP to execute the Agreement, abide by the Bylaws, and provide and take transmission service under the OATT. These revisions have been made to ensure the goals, objectives, and requirements of the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005) (EPAAct 2005) are met. SPP and Western-UGP will ensure compliance with the performance standards, monitoring, and oversight requirements of Section 1232(c) of EPAAct 2005 by taking the following actions:

- a) SPP will annually provide Western-UGP with copies of any nonconfidential content of its strategic plan and annual targets used for monitoring compliance with the plan through oversight and monitoring as performed by its Board of Directors and Members Committee.
- b) SPP will annually make reasonable efforts to provide Western-UGP with nonconfidential information regarding its performance as a Transmission Provider in meeting its obligations under section 2.1.1 of the Agreement.
- c) SPP will annually make reasonable efforts to provide Western-UGP with nonconfidential information regarding its performance as a Reliability Coordinator in meeting its obligations under section 2.1.2 of the Agreement.
- d) Western-UGP will utilize the inspection and auditing procedures under section 2.4.1 of the Agreement to verify the annual reports provided by SPP.
- e) Western-UGP will ensure its obligations for oversight and monitoring of SPP's performance as required by EPAAct 05 are met through participation on the Members Committee and the Governance Committee.
- f) Recovery of all of the costs and expenses related to Western-UGP transmission facilities shall be made in accordance with Sections 3.10 and 3.11 of the Agreement.

A1.4. Contingent Upon Appropriations and Authorization

Where activities provided for in this Agreement extend beyond the current fiscal year, continued expenditures by the United States through Western-UGP are contingent upon

Congress making the necessary appropriations required for the continued performance of the obligations of Western-UGP under this Agreement. In case such appropriation is not made, SPP hereby releases Western-UGP from its contractual obligations under this Agreement and from all liability due to the failure of Congress to make such appropriation.

A1.5 Employment Practices; SPP Agreement

During the performance of this Agreement, SPP agrees to the provisions set forth in OATT Section 39.3 and its subdivisions. In addition, the Agreement will include the following provisions in every subcontract or purchase order involving Western-UGP unless exempted by rules, regulations, or order of the Secretary of Labor.

A1.5.1 Equal Opportunity Employment Practices

Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), which provides, among other things, that the Agreement will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated by reference in the Agreement by reference to same as if the specific language had been written into the Agreement, except that Indian Tribes and tribal organizations may apply Indian Preference to the extent permitted by Federal law.

A1.5.2 Contract Work Hours and Safety Standards

The Agreement, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (“Act”), 40 U.S.C. § 3701, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. § 3701-3708, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

A1.5.3 Use of Convict Labor

SPP agrees not to employ any person undergoing sentence of imprisonment in performing the Agreement except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

A1.6 Federal Projects

The individual hydroelectric projects from which the Western-UGP markets capacity and energy are owned and controlled by the Corps or the Bureau of Reclamation. These projects are operated to satisfy multiple purposes such as irrigation, navigation, flood control, fish and wildlife, and recreation, as well as power production. Any operation of, and maintenance, modification or addition to such projects is subject to the requirements and express approval of either Corps or the Bureau of Reclamation. The Parties also

recognize and agree that Western-UGP's transmission system is integrated at various locations through switchyard facilities owned and operated by the Corps or Bureau of Reclamation. Any operation of, and maintenance, modification, or addition to such facilities, including the funding of such activities, is subject to the requirements and express approval of the Corps or Bureau of Reclamation. Western-UGP shall communicate and coordinate with the Corps or Bureau of Reclamation on any operation of, and maintenance, modification, or addition to the Corps or Bureau of Reclamation facilities as requested by SPP; Provided, that compliance with SPP's request shall be within the discretion of and subject to the approval of the Corps or Bureau of Reclamation. In the event SPP requests changes due to redispach, operation, maintenance or addition to hydroelectric generation owned and operated by the Corps or Bureau of Reclamation and marketed by Western-UGP, Western-UGP shall coordinate its operations with the Corps and Bureau of Reclamation to accommodate SPP's request to the extent allowed by the Corps or Bureau of Reclamation. Nothing in this section is intended to change the Corps or Bureau of Reclamation obligations pursuant to their registration with NERC.

~~A1.7 No Expansion of Jurisdiction, Waiver Of Defenses, Liability For Penalties, Or Inconsistent Obligations~~

~~By entering into this Agreement, Western-UGP has not waived or conceded any defense it may have, including sovereign immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any action against it by an Enforcement Authority, nor has Western accepted any liability, responsibility, or obligation to pay any civil monetary penalties or fines imposed by an Enforcement Authority to which it would not have been subject in the absence of this Agreement. SPP, in accepting Western-UGP as a member, does not thereby concede or accept responsibility for any portion of a penalty or fine attributable to the actions or omissions of Western-UGP. SPP will identify the amount of any such penalty or fine that SPP determines is attributable to Western-UGP and will identify that amount to FERC as uncollectable and not owed by SPP. Enforcement Authority in this Agreement means the Federal Energy Regulatory Commission (FERC), Electric Reliability Organization (ERO), or Regional Entities with enforcement authority pursuant to a delegation from an ERO or FERC for the purpose of proposing and enforcing reliability standards.~~

A1.78 Transmission Expansion, Interconnections, Modifications, and Additions

SPP recognizes that as a Federal agency, Western-UGP must comply with various environmental and natural resource laws regulating the construction, operation and maintenance of its transmission facilities, including but not limited to the National Historic Preservation Act, 16 U.S.C § 470 to 470x-6, the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347 ("NEPA"), the Endangered Species Act, 16 U.S.C. §§ 1531-1544, and the Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470aa-470mm (2006); and regulations, and executive orders implementing these laws, as they may be amended or supplemented, as well as any other existing or subsequent applicable laws, regulations and executive orders. SPP shall comply with environmental

laws, regulations and resource protection measures that apply to SPP, including but not limited to, any mitigation measures and Best Management Practices that apply to SPP and are associated with a transmission or interconnection customer's requested service. SPP understands that Western-UGP's decision to allow transmission expansion, interconnections, modifications and additions is dependent on conclusions reached in the record of decision under NEPA, or other such appropriate NEPA document, concerning the respective project and that Western-UGP's NEPA review could result in a decision not to take action or to delay action. This decision shall not be subject to dispute resolution.

A1.89 Net Billing

Payments due Western-UGP may be offset against payments due SPP. For services included in net billing procedures, payments due one Party in any month shall be offset against payments due the other Party in such month, and the resulting net balance shall be paid to the Party in whose favor such balance exists. The Parties shall exchange such reports and information that either Party requires for billing purposes. Net billing shall not be used for any amounts due which are in dispute.

A1.910 Bill Crediting

Payments to Western-UGP by SPP shall be paid by SPP to a third party when so directed by Western-UGP. Any third party designated to receive payment in lieu of Western-UGP, and the amount to be paid to that party, will be so identified in writing to SPP. The payment to the third party shall be due and payable by the payment due date specified on Western-UGP's bill. When remitting payment to a designated third party, SPP shall indicate that such payment is being made on behalf of Western-UGP. Western-UGP shall credit SPP for the amount paid as if payment had been made directly to Western-UGP.

A1.101 Federal Power Marketing Agency Termination

(a) Notwithstanding anything else in the Agreement, Western-UGP may terminate this Agreement and withdraw as a member of SPP with less than the advanced notice required by Section 4.2.2 of the Agreement. Western-UGP shall not be required to pay the exit fees outlined in Section 4.3 (entitled Obligations Upon Termination) of the Agreement, Section 8.4 (entitled Monthly Assessments) and Section 8.7 (entitled Financial Obligation of Withdrawing Members) of the Bylaws in the event FERC finds that SPP has not adhered to all of the Federal Power Marketing Agency Amendments or if SPP files and FERC approves material changes to the Federal Power Marketing Agency Amendments ~~as they exist at the time of Western-UGP's initial membership, or as they may be revised in the future by mutual agreement between Western-UGP and SPP.~~ In such event, Western-UGP and SPP shall meet and confer to facilitate the withdrawal as soon as practicable or as necessary to facilitate the withdrawal.

(b) Should Western-UGP exercise any type of termination of this Agreement, Western shall not be responsible for payment of facility expansion costs under regional Schedule 11, including but not limited to capital, interest, prepayment premiums or penalties, for past, present or future SPP construction projects.

A1.117 No Expansion of Jurisdiction, Waiver Of Defenses, Liability For Penalties, Or Inconsistent Obligations

By entering into this Agreement, Western-UGP has not waived or conceded any defense it may have, including sovereign immunity, intergovernmental immunity, or lack of subject matter jurisdiction in any action against it by an Enforcement Authority, nor has Western accepted any liability, responsibility, or obligation to pay any civil monetary penalties or fines imposed by an Enforcement Authority to which it would not have been subject in the absence of this Agreement. SPP, in accepting Western-UGP as a member, does not thereby concede or accept responsibility for any portion of a penalty or fine attributable to the actions or omissions of Western-UGP. SPP will identify the amount of any ~~such~~ penalty or fine that SPP allocates to Western-UGP or that SPP determines is attributable to Western-UGP and will identify that amount to FERC as uncollectable and not otherwise owed by SPP. Enforcement Authority in this Agreement means the Federal Energy Regulatory Commission (FERC), Electric Reliability Organization (ERO), or Regional Entities with enforcement authority pursuant to a delegation from an ERO or FERC for the purpose of proposing and enforcing reliability standards.

A.2 Amendments Not Severable

Pursuant to Section 8.4 of the Agreement, these Amendments shall not be considered severable from the other provisions of Western-UGP's Membership Agreement with SPP. If for any reason any provision of these Amendments, 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 Western-UGP's Agreement with SPP shall no longer be in effect with respect to Western-UGP.

IN WITNESS WHEREOF, Western-UGP and SPP have caused their duly authorized representatives to execute, on their respective behalves, these Amendments to Western-UGP's Membership Agreement with SPP, which Amendments are fully applicable and incorporated in to said Membership Agreement and together shall constitute one and the same instrument binding upon Western-UGP and SPP.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

WESTERN AREA POWER ADMINISTRATION-UPPER GREAT PLAINS REGION:

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.:

Name of Authorized Representative

Title of Authorized Representative

Signature of Authorized Representative

Date of Execution

**AMENDMENTS TO SPP MEMBERSHIP AGREEMENT
FOR BASIN ELECTRIC POWER COOPERATIVE**

A1. Dispute Resolution

Notwithstanding any provisions in the Agreement or the SPP Bylaws to the contrary, any disputes arising under the Agreement or SPP Bylaws and relating to determinations, decisions, conduct and actions made or taken by Basin Electric Power Cooperative ("Basin") pursuant to its participation in SPP shall be subject to binding resolution under Section 3.13 of the SPP Bylaws only to the extent agreed upon by Basin's board of directors, and subject to the terms and conditions set by Basin's board of directors.

A2. Withdrawal Rights

Basin may terminate this Agreement and withdraw as a member of SPP with less than the advance notice required by Section 4.2.2 of the Agreement in the event that (1) Western-UGP withdraws from SPP in accordance with its withdrawal rights; ~~or~~ (2) FERC finds that SPP has not adhered to all of the Federal Power Marketing Agency Amendments or all of the Basin Amendments; or (3) SPP files and FERC approves one or more changes to the Basin Amendments without Basin's consent, and such changes have a material adverse effect on Basin. In such event, Basin and SPP shall meet and confer to facilitate the withdrawal as soon as practicable or as necessary to ensure compliance with state or Federal law. In the event of a withdrawal by Western-UGP, Basin's withdrawal will become effective on the same date as that of Western-UGP. If Basin exercises its withdrawal rights under this provision, the financial obligations will be calculated under § 4.3 of this Agreement.

A3. Obligation to Build Conditions

Basin's board of directors shall have discretionary authority to decide whether Basin will construct new transmission facilities. Basin's board of directors shall not replace any state regulatory authority with responsibility for siting activities under state law.

IN WITNESS WHEREOF, Basin and SPP have caused their duly authorized representatives to execute, on their respective behalves, these Amendments to Basin's Membership Agreement with SPP, which Amendments are fully applicable and incorporated into said Membership Agreement and together shall constitute one and the same instrument binding upon Basin and SPP.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

BASIN ELECTRIC POWER COOPERATIVE:

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.:

Name of Authorized Representative

Title of Authorized Representative

Signature of Authorized Representative

Date of Execution

**AMENDMENTS TO SPP MEMBERSHIP AGREEMENT
FOR HEARTLAND CONSUMERS POWER DISTRICT**

A1. Dispute Resolution

Notwithstanding any provisions in the Agreement or the SPP Bylaws to the contrary, any disputes arising under the Agreement or SPP Bylaws and relating to determinations, decisions, conduct and actions made or taken by Heartland Consumers Power District ("Heartland") pursuant to its participation in SPP shall be subject to binding resolution under Section 3.13 of the SPP Bylaws only to the extent agreed upon by Heartland's board of directors, and subject to the terms and conditions set by Heartland's board of directors.

A2. Withdrawal Rights

Heartland may terminate this Agreement and withdraw as a member of SPP with less than the advance notice required by Section 4.2.2 of the Agreement in the event that (1) Western-UGP withdraws from SPP in accordance with its withdrawal rights; ~~or~~ (2) FERC finds that SPP has not adhered to all of the Federal Power Marketing Agency Amendments or all of the Heartland Amendments; or (3) SPP files and FERC approves one or more changes to the Heartland Amendments without Heartland's consent, and such changes have a material adverse effect on Heartland. In such event, Heartland and SPP shall meet and confer to facilitate the withdrawal as soon as practicable or as necessary to ensure compliance with state or Federal law. In the event of a withdrawal by Western-UGP, Heartland's withdrawal will become effective on the same date as that of Western-UGP. If Heartland exercises its withdrawal rights under this provision, the financial obligations will be calculated under § 4.3 of this Agreement.

A3. Obligation to Build Conditions

Heartland's board of directors shall have discretionary authority to decide whether to construct new transmission facilities. Heartland's board of directors shall not replace any state regulatory authority with responsibility for siting activities under state law.

IN WITNESS WHEREOF, Heartland and SPP have caused their duly authorized representatives to execute, on their respective behalves, these Amendments to Heartland's Membership Agreement with SPP, which Amendments are fully applicable and incorporated into said Membership Agreement and together shall constitute one and the same instrument binding upon Heartland and SPP.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

HEARTLAND CONSUMERS POWER DISTRICT:

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.:

Name of Authorized Representative

Title of Authorized Representative

Signature of Authorized Representative

Date of Execution

SOUTHWEST POWER POOL, INC.

MEMBERSHIP AGREEMENT

**First Revised Volume No. 3
Superseding
Original Volume No. 3**

PROPOSED REVISIONS – APRIL 24, 2014

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Appendix

A

This Agreement is made between the Member and SPP, as defined herein.

1.0 Definitions

Agreement

This Membership Agreement.

Basin Amendments

The amendments and revisions to the SPP OATT, to Basin Electric Power Cooperative's ("Basin's) Network Integration Transmission Service Agreement, or to Basin's Network Operating Agreement necessary for Basin's initial SPP membership or as they may be revised in the future by agreement between Basin and SPP.

Board of Directors

The Board of Directors elected pursuant to the Bylaws.

Bylaws

SPP's Bylaws or any successor document.

Distribution Facilities

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

Eastern Interconnection

One of the three major alternating-current electrical grids in North America. The Eastern Interconnection reaches from Central Canada eastward to the Atlantic coast (excluding Quebec), south to Florida, and back west to the foot of the Rockies (excluding most of Texas).

Effective Date

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

Electric Transmission System

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

Existing Obligations

Shall have the meaning given in Section 4.3.2(b).

Federal Power Marketing Agency

This term shall include the term "Federal Power Marketing Administration" and have the same definition that is set forth in the Federal Power Act at 16 U.S.C. § 796(19), which defines "Federal power marketing agency" as "any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy[.]"

Federal Power Marketing Agency Amendments

The amendments and revisions to the SPP Bylaws, the SPP Membership Agreement, or Section 39.3 of the OATT that are required by a Federal Power Marketing Agency for initial SPP membership or as they may be revised in the future by mutual agreement between a Federal Power Marketing Agency and SPP.

Federal Power-Western-UGP

All capacity and energy generated at reservoir projects under the control of the Department of the Army or the Bureau of Reclamation in the marketing area of the Western-UGP for the purpose of fulfilling Western-UGP's Statutory Load Obligations for the sale of capacity and energy. This shall also include any capacity and energy delivered to or from Western-UGP under the pre-OATT bi-directional agreement with Southwestern Power Administration through Associated Electric Cooperative, Inc. for delivery and receipt at the Maryville Substation. Western-UGP's deliveries to Southwestern shall be considered part of Western's Statutory Load Obligations, and receipts from Southwestern to Western-UGP will be considered as coming from Federal resources. Federal Power-Western-UGP resources shall be eligible to be considered as Designated Resources.

FERC

The Federal Energy Regulatory Commission or successor organization.

Financial Obligations

Shall have the meaning given in Section 4.3.2(b).

Future Interest

Shall have the meaning given in Section 4.3.2(b).

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.

Heartland Amendments

The amendments and revisions to the SPP OATT, to Heartland Consumers Power District's ("Heartland's") Network Integration Transmission Service Agreement, or to Heartland's Network Operating Agreement necessary for Heartland's initial SPP membership or as they may be revised in the future by agreement between Heartland and SPP.

Member

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

NERC

North American Electric Reliability Corporation or successor organizations.

Non-Transmission Owner

A Member that is not a Transmission Owner. 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.

Open Access Transmission Tariff (OATT)

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

Partial Termination

Shall have the meaning given in Section 4.1.

Regional Entity

An entity having enforcement authority delegated to it by NERC pursuant to a delegation agreement accepted by FERC.

Reliability Coordinator

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

SPP

Southwest Power Pool, Inc., or successor organization.

SPP Criteria

SPP's approved operating and planning criteria.

SPP Region

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

Standards of Conduct

SPP's Standards of Conduct that apply to the conduct of its directors, officers, employees, Regional Entity trustees, contractors, and agents.

Statutory Load Obligations

Western-UGP's power marketing function obligations under Federal law to deliver capacity and energy from the output of the Federal hydroelectric projects operated by the Department of the Army and the Bureau of Reclamation to loads which include project use loads, preference power customer loads defined pursuant to a power marketing plan, and other loads required to be served under Federal law.

Tariff Facilities

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

Termination

Shall have the meaning given in Section 4.1.

Termination Date

Shall mean the date of Termination is effective in accordance with Section 4.2.2(b).

Transmission Customer

A customer under the Open Access Transmission Tariff

Terminated Member

An entity that was a Signatory to this Agreement but whose membership in SPP has been terminated under Section 4 of this Agreement.

Transmission Owner

A signatory to this Agreement which: (1) transfers functional control of Tariff Facilities related to the rates, terms and conditions of the OATT to SPP by executing this Agreement; or (2) appoints SPP under another agreement to provide service under the Transmission Tariff over Tariff Facilities which it owns or controls; or (3) is assigned by SPP to construct and accepts the obligation to construct new Tariff Facilities; or (4) undertakes another Transmission Owner's obligation to construct Tariff Facilities in accordance with Section 3.3(c) of this Agreement and Attachment O of the SPP OATT.

Upper Missouri Zone ("UMZ")

The Upper Missouri Zone ("UMZ" or "Zone 19") is the rate pricing zone initially consisting of the following facilities that meet the requirements of Attachment AI, upon the transfer of those facilities to the functional control of the Transmission Provider: (i) the facilities of Western-UGP within the Eastern and Western Interconnections ; (ii) the facilities owned or leased by Basin Electric Power Cooperative or Heartland Consumers Power District within the Eastern Interconnection; (iii) a portion of the facilities owned or leased by Basin Electric Power Cooperative within the Western Interconnection; and (iv) other facilities of the Western Area Power Administration transferred to the functional control of the Transmission Provider.

Western Area Power Administration-Upper Great Plains Region ("Western-UGP")

A division of the Western Area Power Administration that markets and transmits Federal power from reservoir projects under the control of the Department of the Army or the U.S. Bureau of Reclamation to Statutory Load Obligations, including preference power customers in Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota located in a defined marketing area. Western-UGP operates the WAUW Balancing Authority Area in the Western Interconnection, where certain of its transmission facilities are located.

2.0 Rights, Powers and Obligations of 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 schedule transactions and administer transmission service over Tariff Facilities as necessary to provide service in accordance with the SPP OATT.
- (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, 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) 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) SPP shall review and approve, as appropriate, requests for service, schedule transmission transactions, and determine available transfer capability under the OATT, provided that SPP shall coordinate with the Transmission Owner when processing requests for service involving its Tariff Facilities.
- (e) SPP shall be responsible for coordinating with neighboring regional organizations and/or non-member transmission owners or providers as appropriate.
- (f) SPP shall not exercise its administration of transmission service over the Tariff Facilities in such a way as to interfere with contracts between Transmission Owner and any Transmission Customer that are in effect as of the Effective Date of this Agreement except as permitted by the OATT.
- (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) SPP shall propose and file with FERC pursuant to Section 205 of the Federal Power Act modifications to the OATT and make any other necessary filings subject to approval by the Board of Directors.
- (i) SPP shall develop penalties and incentives, subject to FERC filings where appropriate.
- (j) SPP shall direct Transmission Owner pursuant to the provisions of Section 3.3 to construct transmission facilities in accordance with coordinated planning criteria, or if necessary under the OATT.
- (k) SPP shall have the authority to direct the day-to-day operations of the Tariff Facilities in order to carry out its responsibilities as a

Transmission Provider and Reliability Coordinator as described in SPP's Operational Authority Reference Document, attached hereto as Appendix A; 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.

- (1) 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 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 Reliability Coordinator of the Electric Transmission System, and as such, shall have reliability monitoring and emergency response responsibilities pursuant to related SPP Criteria and the following requirements:

- (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 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) SPP shall work with other reliability coordinators and non-member transmission owners or providers to develop regional reliability plans and emergency operating procedures.
- (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) 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 reliability.
- (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 the dispute resolution procedures in the Bylaws.
- (f) SPP shall monitor and coordinate the maintenance of adequate Electric Transmission System voltage levels with control areas and Transmission Owner, where appropriate.
- (g) SPP shall direct redispatch of generation in accordance with the 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

SPP is required to approve all planned maintenance of the Electric Transmission System consistent with the following requirements:

- (a) SPP shall review planned transmission maintenance schedules submitted by Transmission Owner 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) SPP shall analyze a planned transmission maintenance request to determine its effect on available transfer capability, ancillary services, the 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 Owner shall work with SPP to minimize the impact of such planned maintenance, up to and including re-scheduling the maintenance.
- (c) SPP shall notify Transmission Owner of the need to change previously reviewed planned transmission maintenance outages if forced transmission outages or other circumstances compromise the integrity or reliability of the Electric Transmission System. If Transmission Owner is fully compensated for any additional costs resulting from any changes in maintenance schedules as provided in an applicable rate schedule, Transmission Owner shall revise maintenance outages to address such emergency circumstances.
- (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 Owner shall be compensated for the additional costs of rescheduled maintenance as provided in the SPP OATT.
- (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) SPP shall coordinate with Transmission Owner 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 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) SPP shall review planned generating unit maintenance schedules submitted by 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) SPP shall analyze a planned generating unit maintenance schedule to determine its effect on available transfer capability, ancillary services, the reliability of the Electric Transmission System, and any other relevant effects. SPP shall inform a generation owner if its maintenance schedule is expected to have an impact on the reliability of the Electric Transmission System.
- (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) A generation owner that changes planned maintenance at the request of SPP pursuant to this Section 2.1.4 shall be compensated in accordance with the SPP OATT.
- (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 Member, as are necessary to fulfill its obligations under this Agreement, SPP Criteria and the OATT. Such planning shall conform to applicable reliability requirements of SPP, NERC, 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 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 OATT.

2.2.1 Pricing

In connection with its administration of the OATT, SPP on behalf of its Members may propose to FERC such transmission pricing for transmission service as is necessary to fulfill its obligations under this Agreement, and may propose to 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 such filings. The 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 OATT for Tariff Facilities. Notwithstanding the foregoing, 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 directors, officers, employees, Regional Entity trustees, contractors, and agents shall adhere to the 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 FERC.

2.2.4 Ancillary Services

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

2.2.5 Transmission Service Scheduling

- (a) SPP shall schedule and curtail transmission service in accordance with the OATT.
- (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 OATT, which shall be provided to all Members and be made publicly available.

2.3 Fiduciary Responsibilities and Duties of SPP 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 other SPP documents applicable to the Transmission Tariff and approved by the Members;
- (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.

2.4 Additional Obligations of SPP

2.4.1 Inspection and Auditing Procedures

SPP shall grant Member, its employees, agents, or external auditors, and Federal and state regulatory authorities having jurisdiction over SPP or Member, such access to SPP's books, 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, 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. Contact between officers, employees, and agents of 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 Member

Member 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 Owner, some only to a Non-Transmission Owner.

- (a) 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; (ii) administer transmission service under the Transmission Tariff over that Transmission Owner's Tariff Facilities; and (iii) receive funds from Transmission Customers relating to transmission service over Tariff Facilities and distribute funds to the Transmission Owner. Where Member, 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 OATT at rates approved by regulatory authorities, where appropriate, to the extent such generators are able to provide such ancillary services.
- (b) Transmission Owner shall operate and maintain its Tariff Facilities subject to the requirements of this Agreement.
- (c) Where Transmission Owner is a balancing area operator, it shall continue to operate its balancing areas for local generation control and economic dispatch, and shall be responsible for identifying and addressing local problems in a reliable manner.
- (d) Transmission Owner shall provide transmission service over its Tariff Facilities at the direction of SPP pursuant to the terms of the OATT.
- (e) Member agrees to comply with the instructions of SPP in its role as Reliability Coordinator.
- (f) Transmission Owner shall retain all rights of ownership, including legal and equitable title in its Tariff Facilities, subject to the provisions of this Agreement. Transmission Owner, or one acting under its authority, shall retain all rights to access to its Tariff Facilities so long as such access is consistent with the provisions of this Agreement.
- (g) Notwithstanding any other provision in this Agreement, Transmission Owner shall not be obligated or be considered to be allowing transmission over its facilities if such transmission would cause the loss of the tax-exempt status of Transmission Owner or any bonds or other debt of Transmission Owner.
- (h) Notwithstanding any other provisions of this Agreement, Member reserves the right to exercise operational authority of Member's Tariff Facilities (1) to protect public safety and the safety of its workers, to prevent damage to equipment, and to preserve reliability in compliance with NERC standards, and (2) as necessary to preserve Member's rights, duties and obligations regarding electric service to its retail and wholesale native load customers pursuant to any applicable Federal or state law and consistent with NERC standards, if SPP's exercise of operational authority over the Tariff Facilities would endanger said electric service or is contrary to or would curtail, surrender or delegate such Federal or state law rights,

duties and obligations. Member will, as soon as reasonably practicable thereafter, notify SPP of such actions taken by Member. Member and SPP will meet and confer regarding the matter and, as necessary, negotiate in good faith to modify the Agreement to address the matter.

3.1 Redispatch and Curtailment

Where Member owns or controls generation, it shall follow the instructions of SPP in its role as Reliability Coordinator in redispatching generation if such generation directly affects the reliability and capability of the Electric Transmission System and is located within the SPP Region. Member shall follow the instructions of SPP in its role as Reliability Coordinator or as administrator of the OATT to effectuate curtailment of load. Member 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 Member is providing redispatch it shall receive appropriate compensation in accordance with appropriate rate schedules.

3.2 Transmission and Generation Maintenance Practices

Transmission Owner shall maintain its Tariff Facilities in accordance with Good Utility Practice. Member shall maintain its generation facilities subject to this Agreement in accordance with Good Utility Practice. Transmission Owner shall coordinate and obtain SPP approval for maintenance on its Tariff Facilities in accordance with Section 2.1.3 of this Agreement. Where Member owns or 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) 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 Federal or state authorities, including the Member's governing board where it serves as that authority, or in the case of a Federal Power Marketing Agency, the Administrator. Transmission Owner shall use due diligence to construct transmission facilities as directed by SPP in accordance with the OATT and this Agreement, subject to such siting, permitting, and environmental constraints as may be imposed by Federal, state, and local laws and regulations, and subject to the receipt of any necessary Federal or state regulatory approvals, including, as necessary, the Member's governing board where it serves as that authority. Such construction shall be performed in accordance with Good Utility Practice, applicable SPP Criteria, industry standards, 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. Transmission Owner shall be fully compensated to the greatest extent permitted by FERC, or other legislative or regulatory authority for the costs of construction undertaken in accordance with the OATT.
- (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 multiple parties, all parties will be designated to provide their respective new facilities. The parties will agree 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) A designated provider for a project can elect to arrange for a new entity or another Transmission Owner to build and/or own the project in its place. If a designated provider(s) 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.

3.4 Use of Distribution Facilities

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

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

3.6 Facilities Access

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

Transmission Owner shall grant SPP such access to its 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.

Transmission Owner shall not be required to provide access to confidential information unless it consents, which consent will not be unreasonably withheld. 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 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) 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) Member shall comply with all approved and applicable SPP and NERC policies, principles, criteria, standards, and guides and monitoring and certification procedures.
- (c) Where Member is also a member of another NERC Regional Entity it may, at 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 Regional Entity. Where Member receives such a waiver, it agrees to forgo voting privileges on issues before any organizational group pertaining to waived responsibilities.

3.9 Planning and Participation

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

Transmission Owner shall possess the unilateral right to file with FERC, and, if the Transmission Owner is non-jurisdictional, the Transmission Owner shall have the option to file with FERC, or submit to SPP for filing with FERC, pursuant to Section 205 of the Federal Power Act and Federal statutory and regulatory requirements, including Delegation Order No. 00-37.00A, 10 CFR Part 903 and 18 CFR Part 300, as amended or superseded, modifications to change the rates or rate structure for transmission service over its Tariff Facilities, including filing a fixed revenue requirement and supporting data or a rate formula template for its cost of service revenue requirements, and to submit proposals or filings governing new construction with FERC; provided, however, 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 OATT (excluding Distribution Facilities for which an additional charge may be imposed, and Grandfathered Agreements as defined in the OATT). Transmission Owner shall notify SPP in advance of its intention to submit a filing to FERC and provide SPP with a copy of the filing. No approval from SPP is required for such filings.

3.11 No Waiver of Jurisdictional Immunity

If Member is not subject to the jurisdiction of FERC as a public utility under the Federal Power Act, Member shall not be required to take any action or participate in any filing or appeal that would confer FERC jurisdiction over Member that does not otherwise exist. Any order, decision, rule or regulation issued by FERC to SPP or any other Members or Member of SPP relating to matters exempt from FERC jurisdiction under Section 201(f) of the Federal Power Act shall not apply directly or separately to a non-jurisdictional Member. Without limiting the generality of the foregoing, except as otherwise provided in the Federal Power Act, a non-jurisdictional Member shall not be bound or obligated by any FERC order, decision, rule or regulation requiring a change in the rates, terms or conditions for transmission service or compensation for utilizing the transmission facilities of a non-jurisdictional Member, which conflicts with applicable Federal or state law, including any order requiring the suspension of the use of such rates, terms or conditions or the payment of refunds of rates or compensation previously collected or received. A non-jurisdictional Member and SPP acknowledge that FERC, in the context of its jurisdiction over SPP's rates, may review a non-jurisdictional Member's revenue requirement and rates to the extent they comprise or affect the rates charged by SPP or other Members. In the case of a Federal Power Marketing Agency, this review shall be consistent with the Delegation Order No. 00-037.00A, as superseded or amended, from the Secretary of Energy to the Power Marketing Administrations and the FERC, including the regulations implementing this review authority. If FERC does not accept a non-jurisdictional Member's revenue requirement or rates, the non-jurisdictional Member may terminate this Agreement pursuant to the withdrawal provisions of the Agreement. In such event, the non-jurisdictional Member and SPP agree to meet and confer prior to any termination of this Agreement. Nothing in this Agreement, or the participation of a non-jurisdictional Member in SPP and its operations waives any objection to or otherwise constitutes a consent to, the jurisdiction by FERC that does not otherwise exist over the non-jurisdictional Member or its transmission service, facilities and rates.

3.12 Compliance with Federal or State Law

Notwithstanding any other provision of this Agreement, a non-jurisdictional Member shall not be required to take any action or do any other thing with respect to rates, charges, terms or conditions of service, the resolution of disputes under this Agreement or any other matter regarding its obligations and performance under this Agreement, that (i) the non-jurisdictional Member is not permitted by Federal or state law to undertake or that is prohibited in whole or in part by any Federal or state law or regulation applicable to the non-jurisdictional Member; or (ii) would require the non-jurisdictional Member to violate a provision of such state or Federal law or regulation in order to comply with this Agreement. Determination of compliance with and permissible action, conduct or obligations under this Section 3.12 by a non-jurisdictional Member shall be within the sole jurisdiction of the non-jurisdictional Member's governing board, or in the case of a Federal Power Marketing Agency, its Administrator, subject to applicable Federal or state court review. A non-jurisdictional Member shall not object to SPP's participation in any Federal or state proceedings that impact the non-jurisdictional Member's ability to perform under this Agreement or determinations regarding such impact. To the extent possible without violating Federal or state law, a non-jurisdictional Member shall notify SPP in advance of any action that the non-jurisdictional Member is required to take that the non-jurisdictional Member believes would constitute a violation of Federal or state law, and the non-jurisdictional Member and SPP promptly shall meet and confer regarding the matter. As necessary, the non-jurisdictional Member and SPP agree to negotiate in good faith to modify the Agreement as consistent as possible with the original intent to allow SPP to exercise operational authority over the non-jurisdictional Member's Tariff Facilities as otherwise provided in the Agreement. If the non-jurisdictional Member and SPP are unable to resolve the matter, the non-jurisdictional Member may terminate this Agreement pursuant to the withdrawal provisions of the Agreement.

4.0 Termination of Membership

This Section states the terms and conditions applicable to any Termination or Partial Termination.

4.1 Events of Termination and Partial Termination.

A "Termination" shall mean any cessation of Membership, voluntary or involuntary, or a termination of this Agreement for any reason including the following:

- a. Member voluntarily withdraws from membership under Sections 4.0 or 5.0 of this Agreement;
- b. An involuntary termination of membership occurs pursuant to Section 6.0 of this Agreement;
- c. Member withdraws from membership or terminates this Agreement to comply with the terms of any applicable law or regulation;
- d. A withdrawal from membership or termination of this Agreement is ordered by any court or administrative agency of competent jurisdiction; SPP reserves the right, but is not obligated, to maintain before such court or administrative agency, or on any appeal, that FERC has preemptive jurisdiction;
- e. A material breach or repudiation of this Agreement, in the discretion of the non-breaching or non-repudiating party;
- f. The liquidation or dissolution of SPP, unless a third party has assumed the rights and obligations of SPP under this Agreement consistent with Section 8.2, and has reasonably demonstrated capability to perform SPP's obligations under this Agreement;
- g. An agreement between SPP and the Member to terminate this Agreement.

A "Partial Termination" occurs upon a Member's voluntary removal of a portion of its transmission facilities or customers from the SPP Region, including, by way of example and not limitation, sale of a part of the Member's distribution or transmission network or transfer to another service provider of a portion of its retail load.

4.2 Termination Procedures and Effective Dates

4.2.1 Notice of Voluntary Withdrawal

(a) **Notice.** Subject to Section 4.3, a Member may withdraw voluntarily from this Agreement, provided that it has given written notice to the President of its intent to withdraw. Notice of intent to withdraw must state a proposed date for the withdrawal and be delivered to the President no less than twenty-four (24) months prior to such date. The President will advise the Members and the Board of Directors of any withdrawal notices received. In order to assure that there is no more than one proposed termination date with respect to a Member, a withdrawal notice shall be deemed to supersede any prior withdrawal notice given by the Member, except that a Member may not submit a withdrawal notice less than twenty-four (24) months prior to the termination date proposed in the Member's previous notice of intent to withdraw. Voluntary withdrawal is a Termination and creates the same obligations as a Termination for any other reason. Upon receiving a notice of intent to withdraw, SPP shall account for such notice of intent to withdraw in the SPP planning process, unless the Member plans to continue to take transmission service from SPP after the termination date.

(b) **Withdrawal Deposit.** A Member submitting a written notice of its intent to withdraw from this Agreement must simultaneously submit a cash withdrawal deposit to SPP, as set forth in the table below. SPP will not accept a notice of intent to withdraw without a withdrawal deposit. SPP will treat the withdrawal deposit as a pre-payment of a portion of the costs SPP incurs to process the Member's withdrawal from SPP, as set forth in Section 4.3.2(d) of this Agreement, or the costs associated with reintegrating the Member into SPP if the Member subsequently rescinds its notice of intent to withdraw and SPP incurs costs to reintegrate the Member. Withdrawal deposits are as follows:

Member Category	Withdrawal Deposit
Load Serving Entity	\$ 150,000
Non-Load Serving Entity	\$ 50,000

If the cost of processing Member's withdrawal as calculated by SPP pursuant to Section 4.3.2(d) of this Agreement exceeds the withdrawal deposit, the additional amount shall be included in the invoice SPP provides to the Member under 4.3.2(e) of this Agreement. If the Member rescinds its notice of intent to withdraw and the cost of processing the Member's withdrawal and subsequent reintegration into SPP exceeds the withdrawal deposit, SPP shall invoice the Member for the amount of the cost that exceeds the deposit, and the Member shall provide payment to SPP within thirty (30) days of receipt of the invoice. If the withdrawal deposit exceeds the costs of processing the Member's withdrawal and/or reintegration, SPP shall refund the difference to the Member. Notwithstanding the foregoing, a Federal Power Marketing Agency shall not be required to make a withdrawal deposit and shall only be responsible for paying SPP costs after they are incurred and appropriately invoiced pursuant to 4.3.2(e).

4.2.2 Effective Date of Termination

(a) **Voluntary Withdrawal.** If the withdrawing Member is not a Transmission Owner subject to FERC jurisdiction, the Termination Date shall be the date proposed in the withdrawal notice under Section 4.2.1 or otherwise agreed by SPP. If the withdrawing Member is a Transmission Owner subject to FERC

jurisdiction, the Termination Date shall be the later of (i) the proposed date specified in the withdrawal notice or otherwise agreed by SPP, (ii) the effective date, if any, set by the FERC order approving the withdrawal; or (iii) the date that such FERC order is no longer subject to review by a court of competent jurisdiction.

(b) **Termination other than Voluntary Withdrawal.** If the Termination occurs for any reason other than the Member's voluntary withdrawal under Section 4.2.1 or by agreement with SPP, the Termination Date shall be as follows:

- (i) If the Member is not a Transmission Owner subject to FERC jurisdiction, the Termination Date shall be the date of the event by which the Termination occurs, for example, the date a party gives notice that it will treat a breach or repudiation as a Termination or the date a Member withdraws in order to comply with the terms of a law or regulation. The foregoing notwithstanding, if the Termination occurs due to the order of a court or administrative agency, the Termination Date shall be the date the order is no longer subject to review by a court of competent jurisdiction.
- (ii) If the Member is a Transmission Owner requiring regulatory agency approval prior to effectively withdrawing from SPP, then the Termination Date shall be the later of (i) the effective date, if any, set by the regulatory agency order approving the Termination; or (ii) the date that such regulatory order is no longer subject to review by a court of competent jurisdiction.
- (iii) In conjunction with the requirements and limitations imposed in Section 4.2.2(b)(ii) above; Transmission Owning Members of SPP wishing to withdraw from SPP and requiring regulatory agency approval prior to such withdrawal being effective are required to initiate the required regulatory filings seeking approval to withdraw prior to the end of the 24-month notice period. Additionally, these members must provide SPP copies of the regulatory filings in a timely manner after filing with the appropriate regulatory agency. Failure to comply with the terms of this paragraph will effectively rescind the notice of the withdrawing member.
- (iv) Member may terminate this Agreement with less than the required twenty-four (24) months' notice, in the event that the Federal or state law governing Member changes, or any provisions of this Agreement, the provisions of SPP's OATT, or SPP's Bylaws are changed or modified in a manner that causes a conflict with the Member's Federal or state law, regulations, or rate schedules, and the internal dispute resolution process described in Section 12 of the OATT is unable to resolve such conflict. In such event, Member and SPP shall meet and confer to facilitate the withdrawal as soon as practicable as necessary to ensure compliance with Federal or state law.

- (v) Any Member with Transmission Facilities located in the Upper Missouri Zone may terminate this Agreement with less than the required twenty-four (24) month notice in the event that Western-UGP or Basin Electric Power Cooperative withdraws from SPP in accordance with its respective withdrawal rights or if FERC finds that SPP has not adhered to all of the Federal Power Marketing Agency Amendments, the Basin Amendments, or the Heartland Amendments, and any related amendments necessary for such Member's membership in SPP as the amendments exist at the time of such Member's initial membership or as they may be revised in the future by mutual agreement between such Member and SPP. In such event, Member and SPP shall meet and confer to facilitate the withdrawal as soon as practicable or as necessary to ensure compliance with state or Federal law. In the event of a withdrawal by Western-UGP or Basin Electric Power Cooperative, Member's withdrawal will become effective on the same date as that of Western-UGP or Basin Electric Power Cooperative. Member also may terminate this Agreement in the event that SPP files and FERC approves material changes to the OATT or Member's Network Integration Transmission Service Agreement or Network Operating Agreement that have a substantial material adverse effect on Member. If Member exercises its withdrawal rights under this provision, the financial obligations will be calculated under § 4.3 of this Agreement.

4.3 Obligations Upon Termination

4.3.1 Obligation to Hold Users Harmless

Transmission Customers taking service which involves facilities being withdrawn by a Transmission Owner from the functional control of SPP and where such service is under transmission contracts executed before the Termination Date shall continue to receive the same service for the remaining term of each such contract at the same rates, terms, and conditions that would have been applicable if the Termination or Partial Termination had not occurred. Transmission Owner agrees to continue providing service to such Transmission Customers in accordance with the preceding sentence, and shall receive revenues calculated in accordance with the OATT but no more in revenues for that service than if there had been no Termination or Partial Termination.

4.3.2 Obligation to Pay Current and Existing Obligations

- (a) In the event of a Termination or Partial Termination, Member shall pay all obligations incurred under this Agreement at any time prior to the Termination Date. In addition, in order for SPP to recover a portion of certain debts and cost payable by SPP after the Termination Date as further specified in this Agreement, the Member shall pay all Existing Obligations (as defined herein) calculated as of the Termination Date. SPP shall make reasonable efforts to mitigate the Member's Existing Obligations by commercially reasonable actions (such as prepayment of allocable debt, or investment of part or all of the Member's payment in an interest-bearing instrument) and, in its discretion, may further discount the Member's Existing Obligations to reflect any additional mitigation SPP determines it will achieve.
- (b) "Existing Obligations" are all of the following and other obligations as may be set forth in the Bylaws from time to time;
- i. Member's unpaid annual membership fee,
 - ii. Member's unpaid dues, assessments, and other amounts charged under Section 3.8 of this Agreement, Section 8.4 of the Bylaws, or otherwise under the Bylaws, plus the Member's share of costs SPP customarily includes in such dues, assessments or other charges, but which as of the Termination Date SPP had not included in such dues assessments or other charges.
 - iii. Member's share (computed in accordance with the Bylaws) of the entire principal amounts of all SPP Financial Obligations outstanding as of the Termination Date. "Financial Obligations" are all long-term (in excess of six (6) months) financial obligations of SPP, including but not limited to the following:
 - a. debts under all mortgages, loans, loan agreements, borrowings, promissory notes, bonds, and credit lines under which SPP is obligated, including principal and interest;
 - b. all payment obligations under equipment leases, financing leases, capital leases, real estate and office space leases, consulting contracts, and contracts for outsourced services;

- c. any unfunded liabilities of any SPP employee pension funds, whether or not liquidated or demanded; and
 - d. the general and administrative overhead of SPP for a period of three (3) months.
- iv. Any costs, expenses or liabilities incurred by SPP directly due to the Termination, regardless of when incurred or payable, and including without limitation prepayment premiums or penalties arising under SPP Financial Obligations.
 - v. Member's share (computed in accordance with the Bylaws) of all interest that will become due for payment with respect to all interest bearing Financial Obligations after the Termination Date and until the maturity of all Financial Obligations in accordance with their respective terms ("Future Interest"). In the event that a Financial Obligation carries a variable interest rate, the interest rate in effect at the Termination Date shall be used to calculate the applicable Future Interest. In determining the Member's share of Future Interest, SPP shall take into account any reduction of Financial Obligations due to mitigation under this Section.
- (c) In the event of a Partial Termination, Existing Obligations shall first be calculated as though a Termination occurred, and the Member shall pay a percentage thereof as Existing Obligations due to the Partial Termination. Such percentage shall be the percentage reduction of the Net Energy for Load Ratio applicable to the Member resulting from the Partial Termination.
 - (d) In the event of a Termination or Partial Termination by a Member, the Member shall pay to SPP all costs SPP incurs to remove the Member's facilities and/or load from SPP markets and operations. Such costs will be determined by SPP and shall include but not be limited to costs associated with modifying systems and databases, staff time, legal costs, and all costs of completing other tasks necessary to process the Member's Termination. SPP will apply the Member's withdrawal deposit, as specified in Section 4.2.1(b), to such costs, and any costs exceeding the withdrawal deposit shall be included in the invoice to the Member as discussed in Section 4.3.2(e) of this Agreement.
 - (e) SPP shall invoice Member for Existing Obligations within one month after the Termination Date, except that delay by SPP in issuing the invoice shall not diminish Member's obligation to make timely payment. The invoice shall be due and payable no later than five (5) business days after issuance. Any amounts owed by SPP to the Member shall, solely at SPP's election and in its discretion, be offset against the Member's Existing Obligations or paid to the Member concurrently with issuance of the invoice.
 - (f) The Member acknowledges and agrees that Existing Obligations include amounts that SPP expects to accrue and that will become payable by SPP between the date of Member's Notice of Termination and the Member's Termination Date, and that no part of a payment of Existing Obligations

shall be refundable to the Member under any circumstances, including (except as provided in this Section with respect to mitigation or the execution of a new Agreement by the Member after the Member's Termination) any reduction of the Financial Obligations. Any disagreement as to the calculation of Existing Obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws. If, after Termination, the Member elects to re-join SPP and execute the Agreement then in effect, SPP, in its sole discretion, may elect to credit a portion or all of the Member's Existing Obligations paid to SPP upon the Member's earlier Termination against any future payments owed by the Member to SPP.

4.3.3 Construction of Transmission Facilities

Any obligations relating to the construction of new facilities pursuant to an approved plan of SPP shall be negotiated between SPP and the Transmission Owner prior to the Termination Date so as to continue the Transmission Owner's construction obligation for facilities for which SPP has issued a notification to construct to the Transmission Owner prior to the Termination Date. If such obligations cannot be resolved through negotiations, they shall be resolved in accordance with the dispute resolution procedures in the Bylaws and Agreement.

4.3.3A Financial Obligations for Transmission Facilities

A Terminated Member shall remain financially responsible for all financial obligations incurred and costs allocated to its load for transmission facilities approved prior to the Termination Date. Payments in fulfillment of any such obligations and allocated costs shall commence on the date that the costs of such transmission facilities are reflected in SPP's generally applicable rates, unless SPP and the Terminated Member agree to an alternate date. Rights, obligations, and payments applicable to time periods prior to the Termination Date shall be honored by SPP and the Terminated Member. Fulfillment and performance of such rights and obligations, and rights and obligations regarding the use of such transmission facilities, shall be negotiated between SPP and the Terminated Member, and any disputes involving such rights and obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws and Agreement.

4.3.4 Regulatory and Other Approvals or Procedures

Any Termination with respect to a Transmission Owner shall 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 Member is subject to acceptance or approval by FERC, and may be subject to actions of respective Federal or state regulatory authorities to which Member may be subject, and to the actions of any other governmental body which may affect the ability of Member to participate in this Agreement. The following items describe Member's rights and obligations in the event regulatory and other approvals or acceptances are not obtained or changes are required:

- (a) In the event FERC disapproves or refuses to accept this Agreement or the changes to the OATT, transmission service agreements, and Bylaws 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 OATT, transmission service agreements, and Bylaws 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 OATT, transmission service agreements, and Bylaws, then the signatories shall have no further obligations under this Agreement or any filing associated herewith.
- (b) In the event of any order or decision by FERC or by a court modifying this Agreement or the OATT, transmission service agreements, and Bylaws submitted as part of the initial filing seeking FERC acceptance or approval, that in the judgment of Member adversely affects it, then 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, Member will in good faith negotiate to determine whether changes should be made to the Agreement or the OATT, transmission service agreements, and Bylaws to address the reasons for 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 Member adverse to Member (in its sole judgment), or if adherence to this Agreement jeopardizes the tax-exempt status of Member or its bonds, then 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, Member and SPP will, in good faith, negotiate to determine whether changes should be made to the Agreement to address the reasons for Member's withdrawal.

Nothing in this Agreement, nor Member's obligations and performance thereunder, shall affect, or require Member to take or refrain from taking any action that would affect the rights and obligations or enforceability of Member's present or future bond resolutions, tax-exempt debt covenants and financing agreements. Member shall determine in its sole discretion and judgment, in accordance with advice and opinions from its legal counsel, what actions, conduct and performance it is permitted to or must take under its bond resolutions, tax-exempt debt covenants and financing agreements. Member and SPP will meet and confer regarding the matter and, as necessary, negotiate in good faith to modify the Agreement to address the matter.

5.3 Effectiveness as to Certain Members

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

- (a) Receipt of an unqualified opinion of a 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 Facilities under the Internal Revenue code of 1986, as amended;
- (b) Receipt of an unqualified opinion of a nationally recognized bond counsel or general counsel to 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 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) Receipt of a certificate of the trustee for any such outstanding bonds issued for generation, transmission and Distribution Facilities to the effect that Member's entry into this Agreement is permitted under the master bond resolution, as amended; and
- (d) Receipt of an opinion of nationally recognized bond counsel or general counsel to Member that 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 Member, then it shall promptly give notice of its objections or conditions which have not been satisfied to SPP, and 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 of Member for cause, including but not limited to material violation of the 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 the Bylaws. Where membership is terminated by the Board, Member shall comply with the requirements of Section 4.3 of this Agreement.

7.0 Effective Date, Duration, and Transition

- (a) This Agreement shall be effective on the Effective Date and shall remain in force until any Termination Date. All obligations incurred pursuant to Section 4.3 of this Agreement shall survive a termination.
- (b) Where Member 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 any prior agreements shall be considered terminated between 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, and in a case involving a Federal Power Marketing Agency, Federal law shall apply, provided, however, that (i) 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, and (ii) any court or regulatory body applying Arkansas law shall give full effect to Section 3.12 of this Agreement regarding Member's obligations under state law.

8.2 Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon SPP and Member, their respective successors and assigns permitted hereunder, but shall not be assignable by SPP without prior written agreement from Member, with such written agreement not to be unreasonably withheld, or by 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 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 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 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

Except as may be stated otherwise in any Amendments to this Agreement, 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 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, Member 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 60 days such negotiations are unsuccessful, Member or SPP may exercise any withdrawal or termination rights available under Sections 4, 5 or 6 of this Agreement.

8.6 Representations and Warranties

Member and SPP each represent and warrant to the other that as of the later of the date it executes this Agreement or the Effective Date of this Agreement:

- (a) It is duly organized, validly existing, and in good standing under the laws of the jurisdiction where organized;
- (b) Subject to any necessary approvals by Federal or state regulatory authorities of SPP, the execution and delivery by 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 Member and SPP, and, subject to the conditions set forth in this Agreement, constitutes the legal, valid, and binding obligation on the part of 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; and
- (c) There are no actions at law, suits in equity, proceedings, or claims pending or, to the knowledge of Member or SPP, threatened against Member 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

Member and SPP agree that 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 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 constitutes the entire agreement between Member 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 Member or SPP shall be binding upon either party unless contained in this Agreement.

8.10 Good Faith Efforts

Member and SPP agree that each shall in good faith take all reasonable actions necessary to fulfill its respective obligations under this Agreement. Where the consent, agreement, or approval of Member or SPP must be obtained hereunder, such consent, agreement, or approval shall not be unreasonably withheld, conditioned, or delayed. Where 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, Member and SPP 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 shall not be construed, interpreted, or applied in such a manner as to cause 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 Member under this Agreement) between Member and one or more third parties who are not signatories (regardless of the inclusion of one or more other Members as parties to such agreement) for the joint transmission, operation, or maintenance of any electrical facilities covered by this Agreement or the OATT. If such a conflict arises, Member shall advise the Board of Directors, but resolution remains within the sole discretion of Member; provided, however, that Member shall utilize all available remedies and informal and formal dispute resolution procedures to resolve such conflict, and provided, further, that in no event shall 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 the Board of Directors, only upon 30 days written notice to the Membership of the proposed modification(s), and subject to 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. Member agrees to be bound by this Agreement as it may be amended, provided that Member possesses the right to challenge any amendments at FERC and to exercise any withdrawal rights that it possesses under this Agreement if 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 Member and SPP.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Member and SPP have caused their duly authorized representatives to execute this Agreement on their respective behalves.

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.:

Name of Authorized Representative

Title of Authorized Representative

Signature of Authorized Representative

Date of Execution

SOUTHWEST POWER POOL, INC.

BYLAWS

**First Revised Volume No. 4
Superseding
Original Volume No. 4**

PROPOSED REVISIONS – APRIL 24, 2014

Southwest Power Pool Bylaws

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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

Affiliate Relationships

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

- (a) are subsidiaries of the same company;
- (b) one Member is a subsidiary of another Member;
- (c) have, through an agency agreement, turned over control of a majority of their generation facilities to another Member;
- (d) have, through an agency agreement, turned over control of a majority of their transmission system to another Member, except to the extent that the facilities are turned over to an independent transmission company recognized by FERC;
- (e) have an exclusive marketing alliance between Members; or
- (f) ownership by one Member of ten percent or greater of another Member.

Articles of Incorporation

SPP's articles of incorporation as filed with the state of Arkansas.

Board of Directors

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

Bylaws

These bylaws.

Criteria

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

Existing Obligations

Certain financial obligations as defined in Section 8.7.1 of these Bylaws.

ERO

The Electric Reliability Organization under FERC jurisdiction that regulates reliability of the electric power grid.

Federal Power Marketing Agency

This term shall include the term “Federal Power Marketing Administration” and have the same definition that is set forth in the Federal Power Act at 16 U.S.C. § 796(19), which defines “Federal power marketing agency” as “any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy[.]”

Federal Power Marketing Agency Amendments

The amendments and revisions to the SPP Bylaws, the SPP Membership Agreement, or Section 39.3 of the OATT that are required by a Federal Power Marketing Agency for membership in SPP at the time of the Federal Power Marketing Agency's initial membership or as they may be revised in the future by mutual agreement between the Federal Power Marketing Agency and SPP.

Member

An entity that has met the requirements of Section 2.2 of these Bylaws.

Membership

The collective Members of SPP.

Membership Agreement

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

NERC

The North American Electric Reliability Corporation or successor organizations.

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.

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.

Organizational Group

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

Regional Criteria

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

Regional Entity Trustees

A governing body of SPP, independent of the Board of Directors, which specifically oversees SPP's function as an ERO Regional Entity pursuant to the Delegation Agreement between SPP and the ERO.

Regional Reliability Standards

Electric reliability requirements submitted to the ERO by the Regional Entity Trustees; and once approved, implemented and enforced by SPP under authority as the Regional Entity.

Registered Entity(ies)

A bulk electric system owner, operator or user that is required to comply with ERO reliability standards pursuant to the Energy Policy Act of 2005.

SPP

Southwest Power Pool, Inc.

SPP Regional Entity

That part of SPP responsible for the delegated functions pursuant to the Delegation Agreement between SPP and the ERO.

SPP Compliance Monitoring and Enforcement Program

The program used by the North American Electric Reliability Corporation (“NERC”) and the Regional Entities to monitor, assess, and enforce compliance with Reliability Standards within the United States.

Staff

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

Standards Development Team

An SPP Organizational Group assigned or choosing to develop an SPP Regional Reliability Standard for submission to the ERO for approval for enforcement.

Terminated Member

An entity that was a Signatory to the Membership Agreement but whose membership in SPP has been terminated under Section 4 of the Membership Agreement.

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.

Transmission Using Member

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

Western Area Power Administration-Upper Great Plains Region ("Western-UGP")

A division of the Western Area Power Administration that markets and transmits Federal power from reservoir projects under the control of the Department of the Army or the U.S. Bureau of Reclamation to Statutory Load Obligations, including preference power customers in Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota located in a defined marketing area. Western-UGP operates the WAUW Balancing Authority Area in the Western Interconnection, where certain of its transmission facilities are located.

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, any entity engaged in the business of producing, selling and/or purchasing electric energy for resale, and any entity willing to meet the membership requirements, including execution of the Membership Agreement. Membership also is open to any entity eligible to take service under the SPP Open Access Transmission 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) Meeting membership qualifications;
- (b) Providing an application for membership to the SPP President; and
- (c) Executing the Membership Agreement and delivering a signed copy to the President.

The President shall review applications, approve those meeting membership 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 or some other date as may be mutually agreed upon.

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. Failure to comply with 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 Membership Agreement.

2.4 Termination, Removal and Reinstatement

The Board of Directors may terminate the 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) provide evidence that it has fully paid any accrued financial obligation to SPP;
- (b) demonstrate it has corrected the reason for its removal;
- (c) establish that it will be in compliance with SPP membership requirements;
and
- (d) deliver an executed Membership Agreement to the President.

2.5 Participation in Regional Entity Activities

Participation in SPP Regional Entity activities is open to the public and does not require membership in SPP, Inc. nor any of the obligations of membership, including SPP, Inc.'s annual fee.

3.0 ORGANIZATIONAL ADMINISTRATION

3.1 Structure

Member input on decision-making shall be accomplished primarily through Membership participation in Organizational Groups. Members are expected to provide representation to Organizational Groups as requested. Unless otherwise provided in these Bylaws, Organizational 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 effective representation of the Membership. The 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. Criteria for serving on an Organizational Group will be determined in the group's scope. Except for any full representation group, an appointment to an Organizational Group is for an individual, not a corporate entity. Participation in certain sessions of Organizational Group meetings where market sensitive issues are discussed may be restricted to persons representing entities that have executed ERO's Confidentiality Agreement. Representatives on all Organizational Groups will be documented in the SPP directory maintained by the Staff. Organizational Group vacancies will be filled on an interim basis by appointment of the President unless otherwise provided for in these Bylaws.

3.2 Attendance and Proxy

Except for the Market and Operations Policy Committee (MOPC), if a representative does not attend three consecutive Organizational Group meetings, he/she will be considered to have resigned from the group, absent express waiver of this requirement by the chair of the group. Any appeal of removal from the roster of an Organizational Group should be directed to the Corporate Secretary. Any resulting vacancy will be filled in accordance with Section 3.1 Structure of these Bylaws. If a representative is unable to attend an Organizational Group meeting, he/she may in writing appoint a substitute representative who shall have such rights to participate and vote as the representative specifies. The substitute representative may be another member of the Organizational Group or another person who has the authority to act on behalf of the representative. A representative may not grant a proxy for more than three consecutive meetings without the express consent of the chair of the Organizational Group. If a representative exceeds the proxy limit, he/she will be considered to have resigned from the Organizational Group and the vacancy will be filled in accordance with these Bylaws; except, in the case of any full representation Organizational Group, in which case a new representative will be solicited from the member company.

A proxy provided to another representative of the Organizational Group will not be recorded as attendance at the meeting and will not serve to meet or maintain the quorum requirements. A proxy provided to another person with the authority to act on behalf of the representative will be recorded as attendance at a meeting for the purpose of meeting or maintaining the quorum requirements.

3.3 Leadership

3.3.1 Appointment

The Chair of all Organizational Groups shall be nominated by the Corporate Governance Committee for consideration and appointment by the Board of Directors. A Vice 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:

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

3.3.2 Terms

The terms of the Chair and Vice Chair of all Organizational Groups shall coincide with the two-year term of the Chair of the Board of Directors. Organizational Group representation will be reviewed annually for compliance with the Bylaws by the Corporate Governance Committee.

3.3.3 Vacancies

Should any individual having been appointed as a 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 Officers shall carry out the rights, duties, and obligations of SPP pursuant to the 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 reliability coordination, transmission service administration, and other services as may be directed by the Board of Directors;
- (f) serve as SPP's representative before regulatory bodies, NERC, and in other public forums;
- (g) incur reasonable expenses; and
- (h) make 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

Organizational Groups shall meet as necessary. 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, including but not limited to Order 889 Code of Conduct requirements, personnel, financial, or legal matters. Representatives shall be given at least fifteen days written notice of the date, time, place and purpose of each regular or special meeting. Telephone conference meetings may be called as appropriate by the Chair of any Organizational Group with at least one-day prior notice.

3.6 Order of Business

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

3.7 Expenses

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

3.8 Quorum

The quorum for a meeting of the Markets and Operations Policy Committee or the Membership shall be those Members present. The quorum for any other Organizational Group or task force shall be one-half of the representatives thereof, but not less than three representatives; provided, that a lesser number may adjourn the meeting to a later time. The quorum for a meeting must be established and maintained throughout the meeting in order for the Organizational Group to take any binding action(s). Notwithstanding the above, any actions taken before a quorum is lost are considered valid and binding. A proxy will serve to meet the quorum requirements as described in Section 3.2 Proxy of these Bylaws.

3.9 Voting

3.9.1 Markets and Operations Policy Committee and Membership

Upon joining, Members shall be assigned to one of two Membership sectors for the sole purpose of voting on matters before the Markets and Operations Policy Committee or the Membership: Transmission Owning Members, or Transmission Using Members. Each sector votes separately with the result for that sector being a percent of approving votes to the total number of Members voting. An action is approved if the average of these two percentages is at least sixty-six percent. If no Members are present within a sector, the single present sector-voting ratio will determine approval. Unless otherwise stated in these Bylaws, the Markets and Operations Policy Committee or the Membership may determine to vote on an issue by email. The outcome of any email vote must be recorded in the minutes for the group.

3.9.2 Organizational Groups and Task Forces

Each representative of an Organizational Group or Task Force shall have one vote. A simple majority of participants present or represented by proxy and voting shall be required for approval of an action for all other Organizational Group and Task Force action(s). Unless otherwise stated in these Bylaws, an Organizational Group or Task Force may determine to vote on an issue by email. The outcome of any email vote must be recorded in the minutes for the group.

If an Organizational Group is acting as a Standards Development Team as defined in Section 9.5 Regional Reliability Standards Development Process of these Bylaws, it will vote in accordance with the SPP Standards Development Process as approved by FERC.

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 and annually thereafter. 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 secretary to the Organizational Group and any ad hoc task forces of that group. Staff 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 secretary. Minutes shall be published within seven calendar days following a meeting but in any event in advance of the next meeting, and considered final documents upon their approval by the Organizational Group or task force.

3.12 Publications and Data Bases

SPP shall publish and distribute reports as necessary to fulfill the SPP mission. SPP shall also develop and maintain electronic databases of relevant technical information. The release of member-specific proprietary information will be governed by the appropriate SPP governing document (the OATT, the Membership Agreement, the Bylaws, the SPP Criteria) and/or a properly executed confidentiality agreement. Standard publications and standard forms of non-proprietary information will be made available at no charge

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 litigation or the utilization of other dispute resolution processes. SPP administrative involvement in the proceeding is to coordinate with an appropriate firm or panel to facilitate the resolution of the dispute and to provide meeting coordination and facilities. These procedures do not apply to disputes that are covered by the dispute resolution procedures of the SPP OATT or the SPP Compliance Monitoring and Enforcement Program.

3.13.1 Instigation

Any Member may begin these dispute resolution procedures by making a request in writing to the President. The President will inform the Board of Directors of the initiation of any dispute resolution proceedings. This written request must contain the authorized signatures of all parties to the dispute. The request must contain:

- (a) a statement of the issues in dispute;
- (b) the positions of each of the parties relating to each of the issues;
- (c) the specific dispute resolution procedure desired; and
- (d) 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 Process

In the event SPP is a party to the dispute, the parties shall engage a firm specializing in alternative dispute resolution to administer the dispute resolution process. The firm will be mutually determined by the parties and the process will be administered in accordance with these Bylaws and such other SPP governing documents as may be relevant to the proceeding. In the event the parties cannot

mutually agree to the engagement of a firm, the dispute resolution process will be abandoned and other available means for resolution will be pursued.

In the event SPP is not a party to the dispute, the parties to the dispute may engage a firm specializing in alternative dispute resolution to administer the dispute resolution process. The firm will be mutually determined by the parties and the process will be administered in accordance with these Bylaws and such other SPP governing documents as may be relevant to the proceeding. In the event the parties cannot mutually agree to the engagement of a firm, and do not determine some other mutually acceptable procedure, the President of SPP shall provide to each party to the dispute a list of candidates to be used in forming a three-person dispute resolution panel. The candidates shall be persons meeting the requirements for directors. The President shall then call a telephone conference meeting during which 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 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 timely completion.

3.13.3 Resolution Procedures

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

- (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) 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;
- (c) A 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 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 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. Final determinations may be subject to corporate or regulatory approvals, which the parties should disclose at the outset of the process. The Staff 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 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 of Members for the purpose of electing Directors, Members Committee representatives, and Regional Entity Trustees 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” refers to SPP and its officers, directors, Regional Entity Trustees, 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, Regional Entity Trustees, 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) SPP shall not be liable to any Member for damages arising out of or related to any directive, order, procedure, action, or requirement of SPP, under the then effective Bylaws and Criteria.
- (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 SPP, under the then effective Bylaws and Criteria.
- (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 Bylaws and Criteria.
- (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 SPP, under the then effective Bylaws and Criteria.

3.15.2 Insurance

The President is authorized to procure insurance to protect SPP, its directors, Regional Entity Trustees, officers, agents, employees, or other representatives against damages arising out of or related to any directive, order, procedure, action or requirement of SPP, under the then effective Bylaws and Criteria or pursuant to the 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, Regional Entity Trustee, 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, Regional Entity Trustee, 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) Such director, Regional Entity Trustee, 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 SPP.
- (b) If the proceeding was brought by or on behalf of 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, Regional Entity Trustee, officer, agent, employee, or other representative shall have been adjudged liable to SPP.

- (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, Regional Entity Trustee, officer, agent, employee, or other representative and where liability is imposed on the basis of the receipt of such improper personal benefit.
- (d) In order for any director, Regional Entity Trustee, 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) 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) Any reasonable expenses, as shall be determined above, that have been incurred by a director, Regional Entity Trustee, 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, Regional Entity Trustee, 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.

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 3.15 shall not extend to any Member so limited by state or Federal law in complying with the provisions thereof.

3.16 Compliance with Membership Requirements

Compliance monitoring of Members and Staff shall be performed to ensure compliance with all requirements of Membership. Certain SPP compliance monitoring and enforcement functions, as detailed in Section 9.0, shall be performed in concert with related ERO programs, and will be overseen by the Regional Entity Trustees. Other monitoring functions shall be provided by appropriate SPP staff under the oversight of the Oversight Committee and the Board of Directors. Compliance monitoring shall be an after-the-fact investigative and assessment function. Monitoring functions shall include but are not limited to:

- (a) Investigation of all reports or discoveries of non-compliance with approved Bylaws, Regional Criteria, OATT, and agreements between SPP and its Members;
- (b) Obtaining all information needed to investigate all facets of possible non-compliance with Membership requirements;
- (c) Performance of in-depth reviews of operations in order to investigate non-compliance with Membership requirements upon approval from the Oversight Committee;
- (d) Comprehensive audits when recurring issues covering a broad spectrum of violations of Membership requirements are determined and documented;
- (e) Imposition of financial penalties and/or sanctions for non-compliance associated with the results of investigations or audits pursuant to approved standards, policies and/or Criteria;
- (f) Confirmation that SPP is conforming to its own Regional Criteria, OATT, business practices, and reliability operations in a manner that does not stifle the efficiency of the energy markets;
- (g) Utilization of dispute resolution procedures as necessary to resolve conflicts or appeals; and

- (h) Coordination of policy modifications to clearly define requirements and penalties in order to objectively monitor compliance with Membership requirements.

3.17 Market Monitoring

SPP shall establish and provide appropriate support to a market monitoring function in accordance with its OATT. 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 Market Participant as defined in the SPP OATT, or group of Market Participants, shall not have undue influence or impact.

The market monitoring unit shall report to the Board of Directors, except that any management representatives on the Board of Directors are excluded from oversight of the internal market monitor. Any public reports submitted shall be provided to the Board of Directors and concurrently to Commission staff, staff of interested state commissions, SPP management, and the market participants. 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 those duties as delineated and approved in SPP's OATT.

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. Its duties shall include, but are not limited to the following:

- (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 substantive contracts and debt instruments;
- (e) Select and review the performance of SPP Officers, who shall serve at the pleasure of the Board of Directors;
- (f) Approve policies by which positions, duties, qualifications, salaries, benefits and other necessary matters pertaining to the SPP Officers are determined;
- (g) Review, approve, disapprove or recommend revision to the actions of any Organizational Group;
- (h) Act on appeals pursuant to Section 3.10;
- (i) Approve and implement Regional Criteria for enforcement under the terms and conditions of the SPP Membership Agreement;
- (j) Provide input with the Members Committee to the Regional Entity Trustees, on SPP Regional Reliability Standards presented by the MOPC to the Trustees or otherwise developed under the auspices of the Trustees for submission to the ERO for its approval;
- (k) Approve or revise the operating and capital budgets and any additional expenditures;
- (l) Convene a meeting of Members at least annually;

- (m) Approve amendments to these Bylaws as permitted by these Bylaws;
- (n) Approve amendments to the Membership Agreement as permitted by the Membership Agreement;
- (o) Approve Regional Criteria pertaining to planning and operating standards and policies and penalties for non-compliance with such Criteria; and
- (p) Authorize filings with regulatory bodies.

4.2 Composition and Qualifications

4.2.1 Composition

The Board of Directors shall consist of seven persons. 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. 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

4.2.2 Qualifications

Directors shall have recent and relevant senior management expertise and experience in one or more of the following disciplines: finance, accounting, electric transmission or generation planning or operation, law and regulation, commercial markets, and trading and associated risk management.

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. Directors may invest in accordance with SPP's Standards of Conduct. 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 director shall be elected at the meeting of Members to a three-year term commencing upon election and continuing until his/her duly elected successor takes office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members when election of new directors is required, the Corporate Governance Committee shall commence the process to nominate persons equal in number to the directors to be elected;
- (b) At least 45 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the persons it nominates for election as directors, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly and shall deliver same to Members at least 30 calendar days prior to the meeting of Members;
- (c) For purposes of electing or removing directors only, each group of Members with Affiliate Relationships shall be considered a single Member;
- (d) Any additional nominee(s) may be added to the ballot if a petition is received by the Corporate Secretary at least 15 calendar days prior to the meeting of Members and evidencing support of at least 20 percent of the existing Membership; and
- (e) 1) If only one candidate is nominated for a seat, each Member shall be entitled to cast a vote for or against the nominee. The votes will be calculated in accordance with Section 3.9 Voting of these Bylaws, which requires a super majority. In the event a director position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting;

2) If multiple candidates are nominated for a seat, each Member shall be entitled to cast a vote for only one nominee, but may vote against each candidate. The votes will be calculated in accordance with Section 3.9 Voting of these Bylaws, with the exception that a simple majority of votes cast will determine which nominee is elected. In the event a director position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting.

4.4 Resignation and Removal of Directors

Any director may resign by written notice to the President noting the effective date of the resignation. The Membership may remove a director with cause by vote in accordance with Section 3.9 Voting of these Bylaws. 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 of Members or at the next regular meeting of Members. A director who is the subject of removal proceedings 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 a nominee to the Membership for consideration and election to fill the vacancy for the unexpired term at a special meeting of Members following 30 calendar days notice from the Corporate Secretary. The election will be held in accordance with Section 4.3 Term and Election of these Bylaws. The replacement director shall take office immediately upon 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 these Bylaws.

4.6.1 Meetings and Notice of Meetings

The Board of Directors shall meet at least three times per calendar year and additionally upon the call of the Chair or upon concurrence of at least four directors. At least fifteen days' written notice shall be given by the President to each director, the Members Committee, and the Regional State Committee of the date, time, place and purpose 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 prior notice. Board of Directors' meetings shall include the Members Committee, a representative from the Regional Entity Trustees, and a representative from the Regional State Committee (as defined in Section 7.2) for all meetings except when in executive session; provided however, the failure of representatives of the Members Committee and/or of the Regional Entity Trustees and/or of the Regional State Committee to attend, in whole or in part, shall not prevent the Board of Directors from convening and conducting business, and taking binding votes. 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 Vice Chair for two-year terms commencing upon election and continuing until their 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;
- (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

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 simple majority vote of the directors present and voting. Directors must be present at a meeting to vote; no votes by proxy are permitted. Voting will be by secret ballot. The Corporate 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.

4.6.4 Compensation of Directors

Directors shall receive compensation as recommended by the Corporate Governance Committee, and approved 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 (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.
- (c) Provide input with the Board of Directors to the Regional Entity Trustees on SPP Regional Reliability Standards presented by the MOPC to the Trustees or otherwise developed under the auspices of the Trustees for submission to the ERO for its approval.

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 up to 24 persons. Six representatives shall be investor owned utilities Members; five representatives shall be cooperatives Members; two representatives shall be municipals Members (including municipal joint action agencies); three representatives shall be independent power producers/marketers Members; two representatives shall be state power agencies Members; one representative shall be from a Federal Power Marketing Agency; two representatives shall be alternative power/public interest Members; one representative shall be from an independent transmission company Member, defined as having assets under the OATT and no Affiliate Relationships in other categories of Membership; one representative shall be a large retail customer Member, defined as non-residential end-use customers with individual or aggregated loads of 1-MW or more; and one representative shall be a small retail customer Member, defined as residential customers and other customers

with individual or aggregated loads of less than 1-MW. Representatives will be elected in accordance with Section 5.1.2 of these Bylaws.

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 nominated by the Corporate Governance Committee and 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. The election process shall be as follows:

- (a) At least 90 calendar days 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 30 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the persons it nominates for election as representatives, specifying the nominee for any vacancy to be filled. The Corporate Secretary 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 representatives 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 to add such nominee or nominees; and
- (e) The required number of representatives shall be elected by written ballot. A Member shall be entitled to cast a number of votes equal to the number of representatives to be elected. A Member may not cumulate votes. The candidates in each 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 representative may be removed, with cause, by the affirmative vote of a majority of the Members at a meeting of Members. 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 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 Corporate Governance 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.

6.0 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. Nothing in this section is meant to limit these responsibilities or activities in the effort to fulfill SPP's mission.

6.1 Markets and Operations Policy Committee

The Markets and Operations Policy Committee is responsible, through its designated Organizational Groups, for developing and recommending policies and procedures related to the technical operations for the company in accordance with its scope as approved by the Board of Directors.

Each SPP Member shall appoint a representative to the Markets and Operations Policy Committee (MOPC). 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. 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.

6.2 Strategic Planning Committee

The Strategic Planning Committee (SPC) is responsible for the development and recommendation of strategic direction for the company in accordance with its scope as approved by the Board of Directors.

The SPC shall be comprised of eleven members. Three representatives shall be from the Board of Directors; four representatives from the Transmission Owning Member sector as nominated by the Corporate Governance Committee; and four representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the SPC. Each representative of the SPC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs, the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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.

6.3 Human Resources Committee

The Human Resources Committee (HRC) is responsible for the development of personnel policies, including benefits structures, for the company in accordance with its scope as approved by the Board of Directors.

The 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 nominated by the Corporate Governance Committee; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the HRC. Each representative of the HRC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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.

6.4 Oversight Committee

The Oversight Committee (OC) is responsible for monitoring compliance with SPP and regulatory policies for the company in accordance with its scope as approved by the Board of Directors.

The OC shall be comprised of three members from the Board of Directors.

The Board of Directors shall appoint the representatives of the OC. Each representative of the OC 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 OC shall meet as needed, provided that a quorum, as defined in these Bylaws, is present. The OC shall report to the Board of Directors following each OC meeting with respect to its activities and with such recommendations, as the OC deems necessary.

6.5 Finance Committee

The Finance Committee (FC) is responsible for all aspects of financial operations and risk management for the company in accordance with its scope as approved by the Board of Directors.

The 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 nominated by the Corporate Governance Committee; and two representatives from the Transmission Using Member sector as nominated by the Corporate Governance Committee.

The Board of Directors shall appoint the representatives of the FC. Each representative of the FC shall continue to be a representative thereof until the Board of Directors appoints his/her successor. Where a vacancy occurs the Corporate Governance Committee will fill the vacancy on an interim basis until the next meeting of the Board of Directors.

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.

6.6 Corporate Governance Committee

The Corporate Governance Committee is responsible for the overall governance structure, including nominations, for the company in accordance with its scope as approved by the Board of Directors.

To the extent that the membership allows, the CGC shall be comprised of ten members. One representative shall be the President of SPP who will serve as the Chair; one representative shall be the Chairman of the Board, unless his/her position is under consideration, in which case the Vice Chairman of the Board; one representative shall be representative of and selected by investor owned utilities Members; one representative shall be representative of and selected by co-operatives Members; one representative shall be representative of and selected by municipals Members; one representative shall be representative of and selected by independent power producers/marketers Members; one representative shall be representative of and selected by state power agencies Members; one representative shall be representative of and selected by alternative power/public interest Members; one representative shall be representative of and selected by large/small retail Members; and one representative shall be representative of and selected by a Federal Power Marketing Agency Member(s).

Where a vacancy occurs with respect to a representative of a sector, the representatives from the appropriate sector 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.

7.0 Regulatory Involvement and Regional State Committee

Any regulatory agency having utility rates or services jurisdiction over a Member may participate fully in all SPP activities, including participation at the SPP Board of Directors meetings. These representatives shall have all the same rights as Members except the right to vote. Participation includes the designation of representatives by each of the regulatory jurisdictions to participate in any type of committee, working group, task force, and Board of Directors meetings.

7.1 Retention of State Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish existing state regulatory jurisdiction and authority. Each state regulatory agency is expressly reserved the right to exercise all lawful means available to protect its existing jurisdiction and authority.

7.2 Regional State Committee

An RSC, to be comprised of one designated commissioner from each state regulatory commission having jurisdiction over an SPP Member, shall be established to provide both direction and input on all matters pertinent to the participation of the Members in SPP. This direction and input shall be provided within the context of SPP's organizational group meetings as well as Board of Directors meetings. The SPP Staff will assist the RSC in its collective responsibilities and requests by providing information and analysis. SPP will fund the costs of the RSC pursuant to an annual budget developed by the RSC and submitted to SPP as part of its budgeting process, which budget must ultimately be approved by the Board of Directors.

The RSC has primary responsibility for determining regional proposals and the transition process in the following areas:

- (a) whether and to what extent participant funding will be used for transmission enhancements;
- (b) whether license plate or postage stamp rates will be used for the regional access charge;
- (c) FTR allocation, where a locational price methodology is used; and
- (d) the transition mechanism to be used to assure that existing firm customers receive FTRs equivalent to the customers' existing firm rights.

The RSC will also determine the approach for resource adequacy across the entire region. In addition, with respect to transmission planning, the RSC will determine whether transmission upgrades for remote resources will be included in the regional transmission planning process and the role of transmission owners in proposing transmission upgrades in the regional planning process.

As the RSC reaches decisions on the methodology that will be used to address any of these issues, SPP will file this methodology pursuant to Section 205 of the Federal Power Act. However, nothing in this section prohibits SPP from filing its own related proposal(s) pursuant to Section 205 of the Federal Power Act.

7.3 Retention of Other Regulatory Jurisdiction

Nothing in the formation or operation of SPP as a FERC recognized regional transmission organization is in any way intended to diminish the jurisdiction or authority of any other regulatory body. Any regulatory agency having utility rates or services jurisdiction over a Member or the regional transmission organization reserves the right to exercise all lawful means available to protect its existing jurisdiction and authority.

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. Except as addressed in Section 9.0 Regional Entity Function, once approved by the Board of Directors, the budget shall constitute the authority required 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 expenditures in accordance with SPP policy as approved by the Board of Directors.

8.2 Annual Membership Fee

All SPP Members will be subject to an annual membership fee in the amount of \$6,000, or other amount established by the Board of Directors. Unless otherwise agreed, Membership fees for new Members are due at the execution of the Membership Agreement. Membership fees are not subject to refund. 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. Legitimate public interest groups (e.g. consumer advocates, environmental groups, or citizen participation groups) may seek a waiver of the annual membership fee. The request for waiver must be directed to the President in writing 90 days in advance of the start of each fiscal year.

8.3 ERO and Regional Entity Costs

SPP is a Regional Entity of the Electric Reliability Organization and is subject to the terms of the Delegation Agreement executed by SPP and the ERO. SPP will have certain functions as signatory to the Delegation Agreement related to the establishment and submission of annual budgets related to fulfillment of Regional Entity functions as well as participation in the costs incurred by ERO. The Delegation Agreement may specify SPP's responsibility to collect ERO costs from SPP's Regional Entity footprint, and may specify ERO's responsibility to fund SPP's Regional Entity budget.

SPP will clearly set out the costs associated with its operation as a Regional Entity within SPP's annual budget.

8.4 Monthly Assessments

SPP will assess certain Members described herein on a monthly basis all costs not otherwise collected. 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 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 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 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

8.7.1 Existing Obligations

“Existing Obligations” are the following:

- a. Member’s unpaid annual membership fee.
- b. Member’s unpaid dues, assessments, and other amounts charged under Section 3.8 of the Membership Agreement, section 8.4 of the Bylaws, or otherwise under the Bylaws, plus the Member’s share of costs SPP customarily includes in such dues, assessments or other charges, but which as of the Termination Date SPP had not included in such dues, assessments or other charges.
- c. Member’s share (computed in accordance with the Bylaws) of the entire principal amounts of all SPP Financial Obligations outstanding as of the Termination Date. “Financial Obligations” are all long-term (in excess of six (6) months) financial obligations of SPP, including but not limited to the following:
 - i. debts under all mortgages, loans, loan agreements, borrowings, promissory notes, bonds, and credit lines, under which SPP is obligated, including principal and interest;
 - ii. all payment obligations under equipment leases, financing leases, capital leases, real estate and office space leases, consulting contracts, and contracts for outsourced services;
 - iii. any unfunded liabilities of any SPP employee pension funds, whether or not liquidated or demanded; and
 - iv. the general and administrative overhead of SPP for a period of three (3) months.
- d. Any costs, expenses or liabilities incurred by SPP directly due to the Termination, regardless of when incurred or payable, and including without limitation prepayment premiums or penalties arising under SPP Financial Obligations.

- e. Member's share (computed in accordance with the Bylaws) of all interest that will become due for payment with respect to all interest bearing Financial Obligations after the Termination Date and until the maturity of all Financial Obligations in accordance with their respective terms ("Future Interest"). In the event that a Financial Obligation carries a variable interest rate, the interest rate in effect at the Termination Date shall be used to calculate the applicable Future Interest. In determining the Member's share of Future Interest, SPP shall take into account any reduction of Financial Obligations due to mitigation under this Section.

8.7.2 Computation of a Member's Existing Obligations

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. In the event of consolidation of affiliate memberships or the transfer of membership from one corporate entity to another, whereby one entity remains a member of SPP, the withdrawal obligation for the departing company(ies) may be waived at SPP's sole discretion.

8.7.3 Financial Obligations for Transmission Facilities

A Terminated Member shall remain financially responsible for all financial obligations incurred and costs allocated to its load for transmission facilities approved prior to the Termination Date. Payments in fulfillment of any

such obligations and allocated costs shall commence on the date that the costs of such transmission facilities are reflected in SPP's generally applicable rates, unless SPP and the Terminated Member agree to an alternate date. Rights, obligations, and payments applicable to time periods prior to the Termination Date shall be honored by SPP and the Terminated Member. Fulfillment and performance of such rights and obligations, and rights and obligations regarding the use of such transmission facilities, shall be negotiated between SPP and the Terminated Member, and any disputes involving such rights and obligations shall be resolved in accordance with the dispute resolution procedures in the Bylaws and Membership Agreement.

8.7.4 Penalty Costs

A Terminated Member shall remain liable for its share of costs associated with penalties assessed against SPP by FERC, the FERC-approved Electric Reliability Organization, any Electric Reliability Organization-approved Regional Entity, or any other governmental or regulatory authority with jurisdiction over SPP that SPP incurs as a result of events that occurred prior to Member's Termination Date but that SPP is unable to recover under the SPP OATT.

8.7.5 Limitation on Financial and Penalty Obligations

(a) Notwithstanding the delineation of Members' financial obligations in section 8.7, a Federal Power Marketing Agency shall not be subject to the financial obligations listed in this Section 8.7 in the event FERC finds that SPP has not adhered to all of the Federal Power Marketing Agency Amendments as that term is defined in Section 1.0 of these Bylaws or if SPP files and FERC approves material changes to the Federal Power Marketing Agency Amendments as they exist at the time of the Federal Power Marketing Agency's initial membership, or as they may be revised in the future by mutual agreement between the Federal Power Marketing Agency and SPP.

(b) Provided further, notwithstanding any language to the contrary in these Bylaws, a Federal Power Marketing Agency has not waived or conceded any defense it may have, including sovereign immunity,

intergovernmental immunity, or lack of subject matter jurisdiction in any action against it by an Enforcement Authority, nor has it accepted any liability, responsibility, or obligation to pay any civil monetary penalties or fines imposed by an Enforcement Authority to which it would not have been subject in the absence of these Bylaws. SPP, in accepting Western-UGP as a member, does not thereby concede or accept responsibility for any portion of a penalty or fine attributable to the actions or omissions of Western-UGP. SPP will identify the amount of any ~~such~~ penalty or fine that SPP allocates to Western-UGP or that SPP determines is attributable to Western-UGP and will identify that amount to FERC as uncollectable and not otherwise owed by SPP. Enforcement Authority in these Bylaws means the Federal Energy Regulatory Commission (FERC), Electric Reliability Organization (ERO), or Regional Entities with enforcement authority pursuant to a delegation from an ERO or FERC for the purpose of proposing and enforcing reliability standards.

9.0 REGIONAL ENTITY FUNCTION

9.1 Regional Entity

SPP operates as a Regional Entity under FERC jurisdiction with oversight powers delegated to it by the ERO. The Regional Entity Trustees shall appoint representatives to ERO organizational groups as necessary to represent the interests of the SPP Regional Entity. SPP may pay appropriate associated travel expenses of those appointed representatives upon receipt by the Secretary to the Trustees of an expense report as normally filed within the representative's system.

9.2 Regional Entity Staff

The Regional Entity Trustees will oversee staffing requirements for the SPP Regional Entity. All SPP Regional Entity staff shall report through the Regional Entity (RE) General Manager to the Trustees.

9.3 RE General Manager

The RE General Manager shall be selected by and report to the SPP Regional Entity Trustees, and will provide leadership and vision, oversee the execution of RE strategic direction, and direct the day-to-day operations of the RE. The RE General Manager shall carry out the rights, duties and obligations of the SPP RE pursuant to the authority granted by these Bylaws, the Regional Entity Trustees, and SPP corporate policies. The RE General Manager's responsibilities shall include but are not limited to:

- (a) Providing guidance and oversight of the execution of the performance of delegated statutory functions from the ERO;
- (b) Developing and managing an appropriate organizational structure and staffing levels to accomplish the RE functions;
- (c) Developing an annual RE business plan and budget for RE Trustee, NERC and FERC approval;
- (d) Providing sound fiscal management;
- (e) Ensuring compliance with SPP's Bylaws and Regional Entity Delegation Agreement, as well as other applicable Federal, state, and local laws; and
- (f) Interfacing with SPP members and stakeholders, Federal and state regulators, other Regional Entities, and NERC on matters related to the reliability of the bulk power system.

The President shall ensure that the RE General Manager has adequate resources, access to information, and the full cooperation of Staff and Organizational Groups for the effective execution of his/her duties.

9.4 Duties of Regional Entity Staff

Regional Entity functions related to compliance monitoring and enforcement shall include but are not limited to:

- (a) Investigation of all reports or discoveries of non-compliance with approved ERO policies and standards;
- (b) Obtaining all information needed to investigate all facets of possible noncompliance with ERO policies and standards;
- (c) Performance of in-depth reviews of operations in conjunction with the Compliance Monitoring and Enforcement Program (CMEP);
- (d) Comprehensive audits when recurring issues covering a broad spectrum of violations of ERO policies and standards are determined and documented;
- (e) Recommendation of financial penalties and/or sanctions for non-compliance with ERO policies and standards pursuant to ERO guidelines;
- (f) Assist the Regional Entity Trustees with third party audits to confirm that SPP is conforming to ERO policies and standards;
- (g) Utilization of dispute resolution procedures as necessary to resolve conflicts or appeals; and
- (h) Coordination of policy modifications to clearly define ERO requirements, and penalties in order to objectively monitor compliance.

9.5 Regional Reliability Standards Development Process

When an SPP working group or task force is considering an SPP Regional Reliability Standard, it will be designated the Standards Development Team (SDT) for that Standard in accordance with the SPP Regional Entity Standards Development Process Manual. For purposes of an SDT, participation and voting will be open to any interested party in accordance with the Standards Development Process and without regard to membership status in SPP.

9.6 Compliance Monitoring and Enforcement Program

The Regional Entity Trustees will oversee SPP's Compliance Monitoring and Enforcement Program (CMEP). The CMEP will enforce compliance according to ERO reliability standards for Registered Entities. Regional Entity staff shall oversee compliance auditing of registered entities, and will report audit results to the Regional Entity Trustees. All audits of SPP's compliance with ERO reliability standards will be performed by external third party auditors as coordinated and managed by the Regional Entity Trustees.

9.7 Regional Entity Trustees

9.7.1 Functions and Duties of the Regional Entity Trustees

The Regional Entity Trustees shall at all times act in the best interests of SPP's role as the SPP Regional Entity in its management, control, and direction of the general business of the Regional Entity functions. In reaching any decision and in considering the recommendations of an appropriate entity, the Regional Entity Trustees shall abide by the principles in these Bylaws. Its duties shall include, but are not limited to oversight of the following:

- (a) Select, oversee and review the performance of the SPP RE General Manager in carrying out the statutory functions and duties as defined in the Delegation Agreement between ERO and SPP;
- (b) Approve the annual RE business plan and budget;
- (c) Perform function assigned by the SPP Compliance Monitoring and Enforcement Program;
- (d) Track and review Regional Standards from MOPC for submission to the ERO and FERC for approval and implementation.
- (e) Complete a self-assessment annually to determine how effectively the Regional Entity Trustees are meeting their responsibilities; and
- (f) Provide an annual report to the Board of Directors regarding the effectiveness of the Regional Entity function and processes.

9.7.2 Composition and Qualifications

9.7.2.1 Composition

The Regional Entity Trustees shall consist of three (3) persons. The trustees shall be independent of the SPP Board of Directors, any Member, industry stakeholder, or SPP organizational group. Regional Entity Trustees do not serve as members of the SPP Board of Directors. A trustee shall not be limited in the number of terms he/she may serve.

9.7.2.2 Qualifications

Regional Entity Trustees shall have relevant senior management expertise and experience in the reliable operation of the bulk electric transmission system in North America.

9.7.2.3 Conflicts of Interest

Regional Entity Trustees 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, a customer of services provided by SPP, or a Registered Entity in the SPP footprint. Trustees may invest in accordance with the SPP Standards of Conduct. Participation in a pension plan of a Member, customer, or Registered Entity in the SPP footprint shall not be deemed to be a direct financial benefit if the Member's, customer's, or Registered Entity's financial performance has no material effect on such pension plan.

9.7.3 Term and Election

Regional Entity Trustees shall be elected at the meeting of Members to a three-year term commencing upon election and continuing until his/her duly elected successor takes office. The election process shall be as follows:

- (a) At least 90 calendar days prior to the meeting of Members when election of a new trustee is required, the Corporate Governance Committee shall commence the process to nominate persons for the position to be elected;
- (b) At least 45 calendar days prior to the meeting of Members, the Corporate Governance Committee shall determine the person it nominates for election as a trustee, specifying the nominee for any vacancy to be filled. The Corporate Secretary shall prepare the ballot accordingly, leaving space for additional names, and shall deliver same to Members at least 30 calendar days prior to the meeting of Members;
- (c) For purposes of electing or removing trustees only, Members with Affiliate Relationships shall be considered a single Member;
- (d) Any additional nominee(s) may be added to the ballot if a petition is received by the Corporate Secretary at least 15 calendar days prior to the meeting of Members and evidencing support of at least 20 percent of the existing Membership; and

- (e) 1) If only one candidate is nominated for a seat, each Member shall be entitled to cast a vote for or against the nominee. The votes will be calculated in accordance with Section 3.9 Voting of these Bylaws, which requires a super majority. In the event a trustees position is not filled the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held but no later than the next regular Board of Directors/Members Committee meeting;
- 2) If multiple candidates are nominated for a seat, each Member shall be entitled to cast a vote for only one nominee, but may vote against each candidate. The votes will be calculated in accordance with Section 3.9 Voting of these Bylaws, with the exception that a simple majority of votes cast will determine which nominee is elected. In the event a trustee position is not filled, the Corporate Governance Committee will determine a new nominee for recommendation for election by the Membership at a special meeting of Members to be held no later than the next regular Board of Directors/Members Committee meeting.

9.7.4 Resignation and Removal of Regional Entity Trustees

Any Regional Entity Trustee may resign by written notice to the President noting the effective date of the resignation. The Membership may remove a trustee with cause in accordance with Section 3.9 Voting of these Bylaws. 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 of Members or at the next regular meeting of Members. A trustee who is the subject of removal proceedings shall be given fifteen days to respond to the Member petition in writing to the President.

9.7.5 Vacancies

If a vacancy occurs, the Corporate Governance Committee will present a nominee to the Membership for consideration and election to fill the vacancy for the unexpired term at a special meeting of Members following 30 calendar days notice from the corporate Secretary. The election will be held in accordance with Section 9.7.3 Term and

Election of these Bylaws. The replacement trustee shall take office immediately upon election.

9.7.6 Meetings and Notice of Meetings

Regular Regional Entity Trustees' meetings will be scheduled in conjunction with the regularly scheduled SPP Board of Directors meetings, provided the meeting schedule may be adjusted for good cause and with sufficient notice, and additionally upon the call of the chair or upon concurrence of at least two trustees. Except as otherwise provided in these Bylaws, all meetings will be open to any interested party. At least fifteen days' written notice shall be given by the chair to each trustee, the Board of Directors, and the Members Committee of the date, time, place and purpose of a meeting, unless such notice is waived by the trustees. Telephone conference meetings may be called as appropriate by the chair with at least one-day prior notice. The chair shall grant any party's request to address the Regional Entity Trustees.

9.7.7 Chair

The Regional Entity Trustees shall elect from its membership a chair for a two-year term commencing upon election and continuing until the chair's duly elected successor takes office or until the chair's term as a trustee expires without re-election. The panel may elect to rotate the chair to the senior member of the panel when the initial, or subsequent, chair's term expires.

9.7.8 Quorum and Voting

Two trustees shall constitute a quorum of the Regional Entity Trustees necessary for a binding vote. Decisions of the Regional Entity Trustees require two affirmative votes. Trustees must be present at a meeting to vote; no votes by proxy are permitted. All Regional Entity Trustee decisions regarding the Regional Entity are final except as subject to oversight by the ERO and FERC.

9.7.9 Compensation of Regional Entity Trustees

Regional Entity Trustees shall receive compensation as recommended by the Corporate Governance Committee, and approved by the Membership submitted for approval as part of the ERO budget process. Trustees shall be reimbursed for actual expenses reasonably incurred or accrued in the performance of their duties.

9.7.10 Executive Session

Executive sessions (open only to Trustees and parties invited by the chair of the Regional Entity Trustees) shall be held as necessary upon agreement of the Regional Entity Trustees to safeguard confidentiality of sensitive information regarding employee, financial or legal matters, or confidential information related to compliance matters.

10.0 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, Section 8.7.5 LIMITATION ON FINANCIAL AND PENALTY OBLIGATIONS, Section 9.0 REGIONAL ENTITY FUNCTION, and Section 10.0 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). 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, 8.7.5, 9.0, and 10.0 of these Bylaws and the Articles of Incorporation may be amended, repealed, or added to only by approval of the Membership. Provided, that all changes to Federal Power Marketing agency/administration representation in Section 5.1.1 and any change to Section 8.7.5 must be mutually agreed to by the Federal Power Marketing Agency Member and SPP. All amendments are subject to the requisite regulatory approval(s).

11.0 Effective Date And Transition Provisions

These Bylaws shall become effective the day following acceptance at FERC and remain in force thereafter as may be amended. These Bylaws hereby cancel and supersede SPP Bylaws; provided, that these Bylaws do not relieve any Member from any financial obligation incurred thereunder. Binding obligations entered into by authority of Officers or the Board of Directors, or the Regional Entity Trustees under these Bylaws are hereby assumed and confirmed as obligations of SPP under these Bylaws.