

**DRAFT COMPARED AGAINST CURRENT FEDERAL HOOVER ESC**  
**NOVEMBER 12, 2014**

CONTRACT NO. \_\_\_\_\_

BETWEEN

UNITED STATES  
DEPARTMENT OF ENERGY  
WESTERN AREA POWER ADMINISTRATION  
Boulder Canyon Project

AND

~~CONTRACTOR XYZ~~

FOR  
ELECTRIC SERVICE

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1. ~~1.~~ PREAMBLE: This CONTRACT, effective as of the first day of January, ~~1987,~~2017, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), the Act of Congress approved December 21, 1928 (45 Stat. 1057), the Act of Congress approved July 19, 1940 (54 Stat. 774), the Act of Congress approved April 11, 1956 (70 Stat. 105), the Act of Congress approved September 30, 1968 (82 Stat. 885), the Act of Congress approved August 4, 1977 (91 Stat. 565), the Act of Congress approved August 17, 1984 (98 Stat. 1333), the Act of Congress approved December 20, 2011 (125 Stat. 777) and acts amendatory or supplementary to the foregoing acts, between THE UNITED STATES OF AMERICA, hereinafter called the “United States,” acting by and through the Administrator, Western Area Power Administration, hereinafter called “Western,” an agency of the Department of Energy, represented by the officer executing this Contract, a duly appointed successor, or a duly authorized representative, hereinafter called the “Contracting Officer,” with the concurrence of the Secretary of the Interior,

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insofar as his responsibilities and authority under the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774), ~~and~~ the Hoover Power Plant Act of 1984 (98 Stat. 1333) , and the Hoover Power Allocation Act of 2011 (125 Stat. 777), are involved in ~~section 17, subsections 11.3 and 11.4, paragraphs 5.1.1 and 5.2.6 and subparagraphs 5.1.1.1, 5.1.1.2, 5.2.4.1, 6.2.3.1, 6.2.3.2, 6.2.3.3, and 6.2.3.4~~ of the Contract, acting through the Bureau of Reclamation, and ~~its CONTRACTOR XYZ~~ the \_\_\_\_\_, a body politic and corporate, and its \_\_\_\_\_, ( \_\_\_\_\_ ), created by and existing pursuant to the laws of the State of \_\_\_\_\_, hereinafter called the “Contractor,” its successors and assigns; Western Reclamation, and the Contractor being sometimes hereinafter individually called “Party,” and both sometimes hereinafter collectively called “Parties”;

WITNESSETH:

2. ~~2.~~ EXPLANATORY RECITALS:

2.1. ~~2.1~~ WHEREAS, the United States is furnishing Boulder Canyon Project electric service to the Contractor under the terms of Contract No. \_\_\_\_\_, dated ~~May 29, 1941,~~ \_\_\_\_\_, which will terminate at midnight, ~~May 31, 1987,~~ September 30, 2017, under its own terms; and

2.2. ~~2.2~~ WHEREAS, ~~the provisions of the General Regulations for Lease of Power of April 25, 1930, and the General Regulations for Generation and Sale of Power in Accordance with the Boulder Canyon Project Adjustment Act, approved and promulgated on May 20, 1941, hereinafter called the “1941 Regulations,” are terminated by the General Regulations for the Charges for the Sale of Power From the Boulder Canyon Project, hereinafter called the “1986 Regulations,” promulgated by the Administrator~~ WHEREAS, the Deputy Assistant Secretary –

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Water and Science of the Department of the Interior on June 3, 1986 (51 Fed. Reg. ~~43124 et seq., November 28, 1986~~), and the 23,960, July 1, 1986) has promulgated General Regulations for Power Generation, Operation, Maintenance and Replacement at the Boulder Canyon Project, Arizona/Nevada, hereinafter called the “1986 Reclamation Regulations,” ~~promulgated by the Deputy Assistant Secretary—Water and Science of the Department of the Interior on June 3, 1986~~ (~~51 Fed. Reg. 23960 et seq., July 1, 1986~~) (43 CFR Part 431), and the Administrator promulgated on November 14, 1986 (51 Fed. Reg. 43124, November 28, 1986) the General Regulations for the Charges for the Sale of Power from the Boulder Canyon Project, hereinafter called the “1986 Western Regulations” (10 CFR Part 904); and

2.3. ~~2.3~~ WHEREAS, the Administrator has promulgated General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (48 Fed. Reg. ~~20881 et seq., 20,881~~, May 9, 1983) and, in accordance with the Hoover Power Plant Act, has published Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (49 Fed. Reg. ~~50584 et seq., 50,584~~, December 28, 1984; Corrections, 50 Fed. Reg. 7823, February 26, 1985), and in accordance with the Hoover Power Allocation Act of 2011 revised the 1984 Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (77 Fed. Reg. 35,671, June 14, 2012) which along with the 1986 Western Regulations, serve as the regulations for ~~contract renewal and~~ electric service contracts and charges for the sale of Power from the Boulder Canyon Project; and

2.4. WHEREAS, Congress enacted and the President signed into law the Hoover Power Allocation Act, amending the Hoover Power Plant Act, and establishing terms and conditions for

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marketing, allocating, and contracting for power generated at the Hoover Powerplant commencing October 1, 2017; and

2.5. ~~2.4~~ WHEREAS, the Hoover Power ~~Plant~~Allocation Act provides that Schedule A, Schedule B, and Schedule D long-term Contingent Capacity and Firm Energy shall be offered to ~~the~~each respective Schedule A, Schedule B, or Schedule D Contractor in a ~~renewal~~new Contract, and Western herein offers such respective Schedule A, Schedule B, or Schedule D Contingent Capacity and Firm Energy, and this Contract evidences the offer and the acceptance of such offer; and

2.6. ~~2.5~~ WHEREAS, section 2, subdivision (c) of the Hoover Power ~~Plant~~Allocation Act provides that Schedule ~~B-Contingent Capacity and Firm Energy and Schedule-C~~ Excess Energy shall be offered ~~to the Contractor, and~~in accordance with the priorities established therein. Western herein offers such ~~Schedule B-Contingent Capacity and Firm Energy, and also offers such Schedule-C~~ Excess Energy in accordance with the statutory priorities, and this Contract evidences such ~~offers~~offer and the acceptance of such ~~offers; and~~offer;

2.7. ~~2.6~~ ~~WHEREAS, the Contractor has executed a Release of Claims and a Voluntary Stipulation of Dismissal with Prejudice consistently with the Hoover Power Plant Act which are attached hereto as Attachments 3 and 4, respectively;~~WHEREAS, the Parties anticipate that the wholesale energy market in general and Transmission Services in particular, as well as Hoover Dam infrastructure, technology, hydrology, the regional transmission grid, and the structure of organizations, such as Power System Entities as defined herein, will change and evolve during the term of this Contract, and that the Parties will coordinate with one another and work together in a collaborative manner to accommodate such changes and evolution;

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NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

3. ~~3.~~ CHARACTER AND TERM OF CONTRACT:

3.1 ~~3.1~~ This Contract constitutes ~~the renewal of the~~ a new contract between the United States and the Contractor for the sale of electrical energy from the Boulder Canyon Project (~~Contract No. \_\_\_\_\_ dated \_\_\_\_\_~~), and fulfills the obligations provided in section 105~~(a)(4)~~ of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act, and section 5~~(b)~~ of the Boulder Canyon Project Act, ~~and Article 16 of Contract No. \_\_\_\_\_~~ \_\_\_\_\_.

3.2 ~~3.2~~ This Contract shall become effective on the date first written above and, subject to prior termination as otherwise provided in this Contract, shall remain in effect until midnight, September 30, ~~2017, without prejudice to any rights to extension hereof which the Contractor may have~~ 2067, subject to renewal as provided under the Boulder Canyon Project Act, as amended and supplemented, provided that the Contractor is not in default hereunder on September 30, ~~2017.~~ 2067. Commencing on the effective date of this Contract, Contractor shall have the rights and obligations related to budget approval for the Fiscal Year commencing October 1, 2017 (section 5.1.3), requesting purchase of Firming Energy for delivery after September 30, 2017 (section 5.4.6), scheduling delivery of energy for delivery after September 30, 2017 (section 5.5), and development of an integrated resource plan or an approved alternative (section 9).

3.3 ~~3.3~~ The date of initial service hereunder for Schedule A ~~and~~, Schedule B and Schedule D Contract Capacity, Firm Energy, and Excess Energy service is ~~June~~ October 1, ~~1987,~~ 2017, immediately after midnight of ~~May 31.~~ September 30, without further action.

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3.4 To address the changing conditions described in Recital 2.7, the Contractors, Reclamation, and Western will meet and confer as needed, but not less than every five years, during the term of this Contract to determine whether any changes to the Contract are required, and if so, to work together to amend the Contract for the benefit of the Parties to this Contract and other Contractors.

4. ~~4.~~ DEFINITIONS: The following terms, when used herein, shall have the meanings specified:

4.1 ~~4.1~~ Administrator: The Administrator of the Western Area Power Administration.

4.2 Ancillary Services: Services, including but not limited to Regulation, Spinning Reserve, and Non-Spinning Reserve, together with such other interconnected operation services offered to support the transmission of energy while maintaining reliable operation in accordance with applicable standards and Good Industry Practice.

4.3 ~~4.2~~ Arizona: The State of Arizona, represented, for purposes of this Contract, by the Arizona Power Authority.

4.4 Arizona Contractors: The entities entering into contracts with the Arizona Power Authority for electric service pursuant to the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act.

4.5 ~~4.3~~ Authorized Representative: A representative of a Party designated in accordance with section 13 hereof.

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4.6 Balancing Authority (BA): The entity that is responsible for integrating resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports interconnection frequency in real time.

4.7 Balancing Authority Area (BAA): The collection of generation, transmission, and loads within the metered boundaries of a Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

4.8 ~~4.4~~ Billing Period: The service period beginning on the first day and extending through the last day of any calendar month.

4.9 ~~4.5~~ Boulder Canyon Project: ~~(Project):~~ All works authorized by the Boulder Canyon Project Act, ~~the Hoover Power Plant Act, and any future additions authorized by Congress, to be constructed and owned by the United States,~~ (but exclusive of the main canal and appurtenances authorized by the Boulder Canyon Project Act, known as the All-American Canal), ~~the Hoover Power Plant Act, the Hoover Power Allocation Act, and any future additions to the Hoover Powerplant or Hoover Dam.~~

4.10 ~~4.6~~ Boulder Canyon Project Act: The Act of Congress approved December 21, 1928 (45 Stat. 1057), as amended and supplemented.

4.11 ~~4.7~~ Boulder Canyon Project Adjustment Act: The Act of Congress approved July 19, 1940 (54 Stat. 774), as amended and supplemented.

4.12 Boulder Canyon Project Implementation Agreement: The Boulder Canyon Project Implementation Agreement Contract No. 95-PAO-10616, as amended or supplemented during the term of this Contract.

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4.13 — ~~4.8~~ Boulder City Area Projects: The Boulder Canyon Project, the Parker-Davis Project, and the United States entitlement in the Navajo Generating Station ~~(a feature of the Central Arizona Project)~~.

4.14 — ~~4.9~~ Colorado River Dam Fund: The special fund in the United States Treasury established by section 2(a) of the Boulder Canyon Project Act and available for carrying out the provisions of said Act, the Boulder Canyon Project Adjustment Act, and the Hoover Power Plant Act.

4.15 — ~~4.10~~ Conformed Criteria: The Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects, published in the FEDERAL REGISTER on December 28, 1984 (49 Fed. Reg. 50584 et seq.); as modified by the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects; Corrections, published in the FEDERAL REGISTER on February 26, 1985 (50 Fed. Reg. 7823, February 26, 1985); and as modified by the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the FEDERAL REGISTER on June 12, 2012 and December 30, 2013.

4.16 — ~~4.11~~ Conservation and Renewable Energy Program: The program described in ~~subsection~~section 9.1.

4.17 ~~4.12~~ Contingent Capacity: The aggregate of Schedule A Contingent Capacity and Schedule B and Schedule D Contingent Capacity, pursuant to section 105(a)(1)(A), section 105(a)(1)(B) and section 105(a)(2) of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act.

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4.18 ~~4.13~~ Contract Capacity: The amount of capacity to which the Contractor is entitled pursuant to ~~paragraphs 5.2.3~~sections 5.2.2 and ~~5.2.5, 5.2.4.~~

4.19 ~~4.14~~ Contractors: The entities entering into contracts with Western for electric service pursuant to the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act.

~~4.15~~ ~~Credit Amount:~~ ~~As defined in paragraph 6.5.8.~~

~~4.16~~ ~~Credit Carryforward:~~ ~~As defined in paragraph 6.5.9.~~

~~4.17~~ ~~Credit Difference:~~ ~~The amount of any difference between (i) the amounts accrued for payment with respect to Indebtedness and Periodic Interest Costs during a Fiscal Year and (ii) the amounts included in the last Credit Schedule with respect to such Fiscal Year.~~

~~4.18~~ ~~Credit Schedule:~~ ~~As defined in paragraph 6.5.5.~~

~~4.19~~ ~~Day:~~ ~~A calendar day~~

4.20 Coordinating Committee: The committee established pursuant to section 11 of the Boulder Canyon Project Implementation Agreement to provide for the exchange of facts and information, avoid disputes and disagreements under the Boulder Canyon Project electric service contracts regarding the criteria, policies, and procedures by which the Project will be operated, maintained, marketed, and kept in good repair so that capacity and energy rates will be at the lowest possible cost consistent with sound business principles; and to facilitate implementation of applicable laws.

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4.21 Emergency: Any abnormal system conditions that require automatic or immediate manual action to prevent or limit the failure of transmission facilities or generation supply that could adversely affect the reliability of the bulk electric system.

4.22 Engineering and Operations Committee (E&OC): The permanent subcommittee of the Coordinating Committee established pursuant to section 12 of the Boulder Canyon Project Implementation Agreement to share information and ideas, and improve communications relating to the Project's program items, operation, costs, and contracts; to facilitate the timely furnishing of data to the Contractors by Reclamation and Western; and to provide an avenue for timely Contractor input on any related issues of concern.

4.23 ~~4.20~~ Excess Capacity: The amount of capacity to which ~~the Contractors~~ ~~are~~ Contractor is entitled pursuant to paragraph 5.2.2.

4.24 ~~4.21~~ Excess Energy: Energy in excess of 4,501.001 million ~~kilowatthours~~ kilowatt hours in any Year of Operation obligated from the Hoover Powerplant pursuant to section 105(a)(1)(C) of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act.

4.25 ~~4.22~~ Federal Projects on the Colorado River: The Boulder Canyon Project, the Parker-Davis Project, and the Glen Canyon, Flaming Gorge, and Wayne Aspinall units of the Colorado River Storage Project.

4.26 ~~4.23~~ Firm Energy: Energy obligated from Hoover Powerplant pursuant to section 105(a)(1)(A) ~~or~~, section 105(a)(1)(B), ~~or both,~~ and section 105(a)(2) of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act.

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4.27 ~~4.24~~—Firming Energy: Supplemental energy purchased by Western at the request of a Contractor to meet any deficiency in Firm Energy under section 105(a)(~~23~~) of the Hoover Power Plant Act, as renumbered by the Hoover Power Allocation Act.

4.28 ~~4.25~~—Fiscal Year: The twelve (12)-month period so designated by Federal law. Until changed by Federal law, Fiscal Year means the period commencing October 1 of each year, immediately after midnight of September 30, and ending at midnight of September 30 of the following year; ~~Provided, the first Fiscal Year under subsection 6.5 shall be the four (4) month period commencing June 1, 1987, immediately following midnight on May 31, 1987, and ending at midnight on September 30, 1987.~~

4.29 Forced Outage: The removal from service of any portion of the Hoover Powerplant generating units or reduction in the Output Capability for Emergency reasons or as the result of an unexpected failure of the Hoover Powerplant or any portion thereof.

4.30 Good Industry Practice: Those practices, methods and acts that would be implemented and followed by prudent operators in the electric utility industry in the Western United States during the relevant time period, which in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety, and shall include, those professionally responsible practices, methods and acts that comply with manufacturers' warranties, applicable standards for the electric utility industry adopted by the Institute of Electrical and Electronic Engineers, the American National Standards Institute, the National Electric Manufacturers Association, applicable standards adopted by WECC, any regional transmission organizations, or any successor organizations, and any applicable

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restrictions in this Contract. Good Industry Practice is not intended to be the optimum practice, method or act to the exclusion of all others, but rather is intended to be any of the practices, methods and/or actions generally accepted in the region.

4.31 Hoover Dam: The dam constructed by the Secretary of the Interior pursuant to the authority granted in section 1 of the Boulder Canyon Project Act, including all associated facilities, including but not limited to intake towers, penstocks, spillways, and tunnels.

4.32 Hoover Power: Contract Capacity and any associated capacity products, Firm Energy, Excess Energy, Ancillary Services, and Ramping generated by, or available using the Hoover Powerplant and associated facilities at the Hoover Powerplant and Hoover Dam.

4.33 ~~4.26~~ Hoover Powerplant: The powerplant at Hoover Dam, currently consisting of seventeen (17) main generating units, associated transmission lines, substations, and appurtenant facilities; together with any additional generating units and associated facilities that may be constructed at Hoover Dam by an Uprating Program.

4.34 Hoover Power Allocation Act: The Act of Congress approved December 20, 2011 (125 Stat. 777).

4.35 ~~4.27~~ Hoover Power Plant Act: The Act of Congress approved August 17, 1984 (98 Stat. 1333).

~~4.36 4.28 Interim Contract: The Interim Contract Relating to the Uprating Program at Hoover Powerplant dated March 11, 1986 (Contract No. \_\_\_\_\_) entered into by the Schedule B Contractors and the United States.~~

4.37 ~~4.29~~ Loaded Synchronized Generation: The quantity of Synchronized Generation that is supplying energy.

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4.38 ~~4.30~~ Master Schedule: The schedule, described in ~~subsection~~section 5.5 prepared by Western each year and furnished to ~~the Contractors~~Contractor setting forth Western's estimate of Power available by months from the Boulder Canyon Project for the twelve (12)-month period beginning on ~~June~~October 1 of any calendar year and extending through ~~May~~September 30 of the next calendar year for each of the Contractors.

4.39 MSCP: The Lower Colorado River Multi-Species Conservation Program as defined in section 9401 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1327).

4.40 ~~4.31~~ NERC Holidays: Holidays recognized by ~~the North American Electric Reliability Council which are listed in Exhibit B~~NERC, which are currently New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

4.41 ~~4.32~~ Nevada: The State of Nevada, represented, for purposes of this Contract, by the Colorado River Commission of Nevada.

4.42 Nevada Contractors: The entities entering into contracts with the Colorado River Commission of Nevada for electric service pursuant to the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act.

4.43 Non-Spinning Reserve: The portion of resource capacity that is capable of being synchronized from an offline condition and Ramping to a specified level of generation within the required time.

4.44 ~~4.33~~ Normal Business Day: ~~As~~ Monday through Friday inclusive, except for NERC Holidays as defined in Exhibit B-section 4.39 hereof.

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4.45 North American Electric Reliability Corporation (NERC): A not-for-profit international regulatory authority or their successor organization, whose mission is to ensure the reliability of the bulk power system in North America.

4.46 ~~4.34~~ Off-Peak Hours: As defined in Exhibit B.

4.47 ~~4.35~~ On-Peak Hours: ~~As defined in Exhibit B.~~ All hours that are not Off-Peak Hours.

4.48 ~~4.36~~ Output Capability: The capacity available from Hoover Powerplant at the Boulder Canyon Project ~~point~~Point(s) of ~~delivery~~Delivery at any given time with all units and equipment in service.

4.49 ~~4.37~~ Power: ~~Contract Capacity, Firm Energy, and Excess Energy.~~

4.50 Outage: A Planned Outage or Forced Outage.

4.51 Participating Contractor: A Contractor which has entered into a written agreement pursuant to section 6.9 with Western, Reclamation and other Contractors, to pay a pro rata share of the cost of an Upgrading Program required to construct new generating equipment and associated facilities or participate in other arrangements that increase Hoover Power Capacity, generation, efficiency, or Ancillary Services, and to receive a pro rata share of the increased capacity, energy, efficiency, Ancillary Services, or other benefits resulting from these improvements.

4.52 Planned Outage: The removal from service of any of the Hoover Powerplant generation units or reduction in the Output Capability for the purposes of carrying out routine planned maintenance, new construction work, or work on transmission facilities that are planned or scheduled in advance in accordance with section 5.1.1.2.1.

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4.53 Points of Delivery: The points at which Western delivers Power to the Contractor, with the current Points of Delivery set forth in Exhibit A.

4.54 Power System Entity: Any entity that operates, coordinates, controls or is established to support a regional transmission system or energy market, or procures products or services on behalf of any such entity.

4.55 Ramping: Changing the generation level of a generation resource over a specified time (e.g., ramping up or ramping down), which changes may be directed by a computer or manual control.

4.56 ~~4.38~~ Rated Capacity: The name plate capacity of the Hoover Powerplant at the Boulder Canyon Project ~~point(s) of delivery at a net effective head of 498 feet~~ with all units and equipment in service; provided that the Rated Capacity shall be revised to reflect any Excess Capacity as determined pursuant to paragraph 5.2.1.

~~4.57 ~~4.39~~ Reclamation: Department of the Interior, Bureau of Reclamation.~~

~~4.58 ~~4.40~~ Reclamation Contract: ~~Each Reclamation contract (other than the Interim Contract) for the advance of funds for the Uprating Program at Hoover Powerplant between Reclamation and a Schedule B Contractor.~~~~

4.59 Reclamation: Department of the Interior, Bureau of Reclamation.

4.60 Regulation: The ability of a generation resource to respond to a direct digital control signal, or by system resources that are capable of delivering such service, in an upward and downward direction, consistent with established NERC and WECC reliability standards or reliability standards of their successor organizations, and any requirements of Western.

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4.61 Repayable Advances: As used in this Contract, this term shall have the same meaning as given in section 4.39 of the Boulder Canyon Project Implementation Agreement.

4.62 ~~4.41~~ Schedule A Contingent Capacity: The capacity shown in the schedule appearing in section 105(a)(1)(A) of the Hoover Power Plant Act ~~as,~~ as amended by the Hoover Power Allocation Act, and shown in Table 1 in ~~paragraph 5.2.3,~~ section 5.2.2.

4.63 ~~4.42~~ Schedule A Contract Capacity: The quantity of capacity calculated in accordance with ~~paragraphs 5.2.3~~ sections 5.2.2 and ~~5.2.5~~ 5.2.4.

4.64 ~~4.43~~ Schedule A Contractor: An entity listed in Table 1 in ~~paragraph 5.2.3~~ section 5.2.2 that enters into a contract with Western pursuant to section 105(a)(1)(A) of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act.

4.65 ~~4.44~~ Schedule B Contingent Capacity: The capacity shown in the schedule appearing in section 105(a)(1)(B) of the Hoover Power Plant Act ~~supplemented as to users in California by the allocation appearing in 50 Fed. Reg. 47830, et seq., as,~~ as amended by the Hoover Power Allocation Act, and shown in Table 2 in ~~paragraph 5.2.3,~~ section 5.2.2.

4.66 ~~4.45~~ Schedule B Contract Capacity: The quantity of capacity calculated in accordance with ~~paragraphs 5.2.3~~ sections 5.2.2 and ~~5.2.5~~ 5.2.4.

4.67 ~~4.46~~ Schedule B Contractor: An entity listed in Table 2 in ~~paragraph 5.2.3~~ section 5.2.2 that enters into a contract with Western pursuant to section 105(a)(1)(B) of the Hoover Power Plant Act ~~and enters into a Reclamation Contract,~~ as amended by the Hoover Power Allocation Act.

4.68 ~~4.47~~ Schedule C: The schedule so captioned appearing in section 105(a)(1)(C) of the Hoover Power Plant Act, ~~reproduced in paragraph 5.3.4 and supplemented as~~

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~~to users in California by the 1986 Regulations, as shown in paragraph~~ as amended by the Hoover Power Allocation Act, and shown in section 5.3.5.

4.69 Schedule D Contingent Capacity: The capacity shown in the schedule appearing in section 105(a)(2)(A) of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act, and shown in Table 3 in section 5.2.2.

4.70 Schedule D Contract Capacity: The quantity of capacity calculated in accordance with sections 5.2.2 and 5.2.4.

4.71 Schedule D Contractor: An entity listed in Table 3 in section 5.2.2 that enters into a contract with Western pursuant to section 105(a)(2)(A) of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act, and executes the Boulder Canyon Project Implementation Agreement.

4.72 ~~4.48~~ Scheduling Entity: Western or an An entity or entities designated by the Contractor ~~which is interconnected with Western at a Boulder Canyon Project point of delivery~~ for scheduling of Hoover Power.

4.73 Spinning Reserve: The portion of Unloaded Synchronized Generation resource capacity that is immediately responsive to system frequency and that is capable of meeting a specified level of generation within the required time.

4.74 ~~4.49~~ Summer Season: The seven (7)-month period beginning on the first (1<sup>st</sup>) day of the March Billing Period of any year, extending through the last day of the September Billing Period of that year.

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4.75 ——— ~~4.50~~ Synchronized Generation: Contract Capacity available from any of the generating units in the Boulder Canyon Project synchronized to Western's power system.

4.76 ——— ~~4.51~~ Transition Period: ~~The period commencing June 1, 1987, immediately after midnight of May 31, and ending at midnight, September 30, 1987.~~

4.77 Transmission Services: Services necessary to support the transmission of electric power from the Boulder Canyon Project to Points of Delivery.

4.78 24-Month Study: The 24-Month Study prepared by Reclamation to present hydrologic descriptions and projected operations for the Colorado River system reservoirs for the next two years, which projects future reservoir conditions and future power generation for the Colorado River system reservoirs given existing reservoir conditions, inflow forecasts and projections, and a variety of operational policies and guidelines.

4.79 ——— ~~4.52~~ Uncontrollable Forces: ~~As defined in Article 28 of the General Power Contract Provisions.~~ Trigger Study: A ten-year forecast using modeling results from the Colorado River Simulation System (CRSS) long-term planning model, or equivalent long-term planning model, prepared routinely by Reclamation to evaluate Colorado River hydrology and its impact on Hoover Power production, which is approved by the Contractors, Western and Reclamation, for use as the Trigger Study.

4.80 ——— ~~4.53~~ Unloaded Synchronized Generation: The difference between scheduled Synchronized Generation and Loaded Synchronized Generation.

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~~4.81~~ ~~4.54~~ ~~Uprating Period:~~ ~~The time period necessary for completion of the Uprating Program.~~

~~4.82~~ ~~4.55~~ ~~Uprating Program:~~ ~~The Any program authorized by section 101(a) of the Hoover Power Plant Act for increasing the capacity of existing and funded by Participating Contractors and approved by Reclamation and Western to construct new generating equipment and appurtenances at the Hoover Powerplant, including replacements, identified and described in the report of Reclamation entitled, "Hoover Powerplant Uprating, Special Report," issued in May 1980, as supplemented by the report entitled, "January 1985 Supplement (Revised September 1985) to Hoover Powerplant Uprating, Special Report May 1980."~~ associated facilities, or participate in other arrangements, that results in the increase of the generating capacity, energy, efficiency, Ancillary Services, Ramping or other benefits at Hoover Powerplant.

~~4.83~~ ~~4.56~~ ~~Western Capacity:~~ ~~The capacity to which Western is entitled pursuant to paragraph 5.2.1.~~

~~4.84~~ ~~4.57~~ ~~Winter Season:~~ The five (5)-month period beginning on the first (1<sup>st</sup>) day of the October Billing Period of any year and extending through the last day of the February Billing Period in the next year.

~~4.85~~ ~~4.58~~ ~~WSCC:~~ ~~The Western Systems Coordinating Council, an affiliation of electric utility systems established to promote reliable operation of interconnected bulk power systems through the coordination of planning and operation of generating and interconnected transmission facilities.~~ WECC: The Western Electricity Coordinating Council (WECC) or their successor organization, is the Regional Entity responsible for coordinating and promoting Bulk Electric System reliability in the Western Interconnection. In addition, WECC

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provides an environment for coordinating the operating and planning activities of its members as set forth in the WECC Bylaws.

4.86 ~~4.59~~ Year of Operation~~or Operating Year~~: The Fiscal Year as defined in ~~subsection 4.25~~section 4.28.

5. ELECTRIC SERVICE TO BE FURNISHED:

5.1 ~~5.1~~ Power Generation and Delivery Responsibilities:

5.1.1 ~~5.1.1~~ Responsibilities of Reclamation: Power generation, and the associated operation, maintenance, and making of replacements, however necessitated, of facilities and equipment at the Hoover Powerplant, are the responsibilities of Reclamation, subject to the requirements of this Contract and the Boulder Canyon Project Implementation Agreement. Reclamation shall conduct meetings quarterly with Western and the E&OC to present to the Contractors revenue and cost data from Reclamation and Western, and shall conduct annual meetings with Western and the Coordinating Committee at which the Coordinating Committee will vote to approve the proposed budgets that will provide the basis for Western's rates for services provided by the Boulder Canyon Project, as set forth in section 7 below.

5.1.1.1 ~~5.1.1.1~~ Subject to the statutory requirement that Hoover Dam and Lake Mead shall be used: ~~first~~First, for river regulation, improvement of navigation and flood control; second, for irrigation and domestic uses and satisfaction of present perfected rights mentioned in section 6 of the Boulder Canyon Project Act; and third, for power, Reclamation shall release water, make available generating capacity, and generate energy, in such quantities, and at such times, as are necessary for the delivery of the capacity and energy to which Contractors are entitled.

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5.1.1.2 ~~5.1.1.2~~ Reclamation ~~reserves~~shall have the right to reschedule, temporarily discontinue, reduce, or increase the delivery of water for the generation of electrical energy at any time for the purpose of maintenance, repairs, or replacements, and for investigations and inspections necessary thereto, or to allow for changing reservoir and river conditions, or for changes in kilowatthours generation per acre-foot, or by reason of compliance with the statutory requirement referred to in subparagraph 5.1.1.1; ~~Provided, however, That Reclamation shall, except in each case of emergency, give Western reasonable notice in advance of any change in delivery of water and Western shall promptly forward such notice to the Contractors, and that Reclamation shall make such inspections and perform such maintenance and repair work at such times and in such manner as to cause the least inconvenience possible to the Contractors and that Reclamation shall prosecute such work with diligence and, without unnecessary delay, resume delivery of water as scheduled,~~ in accordance with the terms and conditions set forth in sections 5.1.1.2.1 and 5.1.1.2.2. Western shall notify Contractor of all Outages and any changes or revisions to such Outages, in accordance with Contractor's Power System Entity's applicable tariff provisions and procedures within the applicable Outage reporting time periods as specified by Contractor from time to time and, if requested by Contractor, shall notify Contractor's Power System Entity or Scheduling Entity.

5.1.1.2.1 Planned Outages: Except in the case of a Forced Outage, Reclamation shall schedule any Planned Outage in accordance with this section 5.1.1.2.1. At least ninety (90) days of the beginning of each Fiscal Year during the Term, Reclamation shall provide Contractor with a proposed schedule of Planned Outages for the upcoming Fiscal Year. Reclamation shall use Good Industry Practice in developing and revising the proposed schedule of

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Planned Outages. The proposed schedule shall designate, for each Planned Outage, (a) the start date and time for such Planned Outage, (b) the anticipated end date and time of such Planned Outage, (c) the amount (in MW) in which the Hoover Powerplant will be reduced in whole or in part during such Planned Outage (d) the purpose of such Planned Outage, (e) the facilities impacted by such Planned Outage and (f) any other relevant information. Reclamation shall also promptly provide any other information reasonably requested by Contractor in connection with the proposed schedule of Planned Outages. Reclamation shall update the proposed schedule to reflect any reasonable comments made by Contractor. Reclamation shall use reasonable efforts, in coordination with Western, to: (x) maximize unit availability; (y) not schedule any Planned Outages during the months of May through October inclusive; and (z) accomplish all Planned Outages in accordance with the Planned Outages schedule.

To the extent that Reclamation is required to change the delivery of water in accordance with Good Industry Practice and applicable law and such change of delivery is not in connection with a currently scheduled Planned Outage or Emergency, Reclamation shall promptly notify the Contractor in writing and update the Planned Outage schedule accordingly; provided, however, that Reclamation shall (a) use reasonable efforts to give Contractor at least [two weeks' notice] prior to any such update and (b) make such changes in delivery of water at such times and in such manner as to cause the least inconvenience possible to Contractor and that Reclamation shall prosecute such work with diligence and, without unnecessary delay, resume delivery of water for generation of power. Reclamation will deliver the updated Planned Outage schedule as soon as practicable.

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Two weeks prior to any Planned Outage, Reclamation shall submit a completed Outage Notification to Contractor and the Contractor's Scheduling Entity or Power System Entity with respect to such Planned Outage.

5.1.1.2.2 Forced Outages: Reclamation shall give notice in compliance with applicable requirements of Contractor's Power System Entity to Contractor and the Contractor's Scheduling Entity or Power System Entity, of any Forced Outage that results from an unanticipated change in the release of water at Hoover Dam, is required to conform to Good Industry Practice, is reasonably necessary in the event of an Emergency, or is implemented for other reason to prevent, avoid, or mitigate injury, danger, damage, or loss to persons or property. If Contractor, Reclamation, or Western becomes aware of an Emergency that may affect the Hoover Powerplant, such Party shall promptly notify the other Parties and describe in reasonable detail the nature of the Emergency and the actions required to be taken in connection therewith. In the event of an Emergency, any Party may take reasonable and necessary action to prevent, avoid or mitigate injury, danger, damage or loss to persons or property, or to expedite restoration of service; provided, however, that the Party taking such action shall give the other Parties prior notice, if practicable, before taking any action. In the event of an Emergency, if and when Contractor requests Reclamation not to institute a Planned Outage of the Hoover Powerplant, Reclamation agrees to take all commercially reasonable steps to avoid instituting the Planned Outage until such time as the condition of the Emergency has passed.

5.1.2 ~~5.1.2~~ Responsibilities of Western: Western shall operate, maintain, replace and repair the ~~Federal~~ electric delivery system in order to deliver the Contractor's ~~Contract Capacity, Firm Energy, and Excess Energy entitlements~~ Hoover Power from

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the Hoover Powerplant to the Boulder Canyon Project ~~point(s) of delivery~~Point(s) of Delivery. Western shall conduct meetings quarterly with Reclamation and the E&OC to present to the Contractors revenue and cost data from Reclamation and Western, and shall conduct annual meetings with Reclamation and the Coordinating Committee at which the Coordinating Committee will vote to approve the proposed budgets that will provide the basis for Western's rates for services provided by the Boulder Canyon Project, as set forth in section 7 below. Western shall set rates which will recover costs as set forth in the 1986 Western Regulations (10 CFR Part 904), this Contract, and the Boulder Canyon Project Implementation Agreement. Western shall measure and account for Power deliveries, render bills, and maintain books of account to ensure the financial integrity of the Boulder Canyon Project.

5.1.2.1 ~~5.1.2.1~~ Western shall accept Hoover Power from Reclamation and, subject to the terms and conditions stated in this Contract, schedule, deliver, and measure said Hoover Power to the Contractor, from and after the date of initial service as provided in ~~subsection~~section 3.3, at the ~~point~~Point(s) of ~~delivery~~Delivery and voltage(s) set forth in Exhibit A.

5.1.2.2 ~~5.1.2.2~~ ~~Power being fungible,~~In addition to Hoover Power provided pursuant to paragraph 5.1.2.1, Western shall be permitted to satisfy its obligations under this Contract by use of generation from ~~Hoover Powerplant or~~ other sources of generation available to Western; ~~Provided, That~~provided, that the measure of the Contractor's rights to Power hereunder shall be the quantity of capacity ~~and,~~ energy and Ancillary Services available from Hoover Powerplant. Power made available to the Contractor shall be deemed to be from Hoover Powerplant. Subject to the Contract rights of all Contractors being preserved, ~~except as provided~~

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~~in paragraph 5.6.2,~~ Western ~~will~~may utilize the Boulder Canyon Project to optimize the operation of the Boulder City Area Projects and the Federal Projects on the Colorado River, in accordance with section 5.1.2.3. Western shall be obligated to provide ~~regulation, ramping and spinning reserves~~Ancillary Services and Ramping to the Contractor in quantities that can be provided by the Hoover Powerplant,~~except as~~ provided ~~in paragraph 5.6.2; Provided, That, that~~ Western may provide ~~regulation, ramping and spinning reserves~~Ancillary Services and Ramping from other Federal Projects on the Colorado River if such ~~regulation, ramping and spinning reserves~~Ancillary Services and Ramping can be made available from such other projects in the same quantity ~~and,~~ quality, and costs, as if such ~~regulation, ramping and spinning reserves were~~Ancillary Services and Ramping shall be deemed to be provided by Hoover Powerplant, ~~subject to the limitations of paragraph 5.6.2.~~

5.1.2.3 To the extent Western uses any Contract Capacity, Firm Energy, Excess Energy, Ancillary Services, or Ramping of Hoover Powerplant for the benefit of an entity that is not a Contractor, Western shall charge the non-Contractor the posted Western Desert Southwest Region rate for the use of such service and provide a credit to the Boulder Canyon Project for the payment received.

5.2.1 ~~5.1.2.3~~ If integrated operation of the Boulder Canyon Project with other Boulder City Area Projects or other Federal Projects on the Colorado River confers a ~~direct~~ power benefit upon such other Boulder City Area Projects or such other Federal projects, or if a ~~direct~~ power benefit is conferred by other Boulder City Area Projects or other Federal Projects on the Colorado River upon the Boulder Canyon Project, ~~Western shall equitably~~ (“the benefit of integrated operations”), Western shall calculate the economic value of

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the benefit of integrated operations, taking into account the quantity and type of product or service used, operational benefits, seasonality, and On-Peak Hours vs. Off-Peak Hours; and apportion such benefits and ~~appropriate~~ charges among the Contractors of the Boulder Canyon Project, ~~other~~ Boulder City Area Projects, ~~and~~ or other Federal Projects on the Colorado River to reflect the value of the benefits of integrated operations in amounts not less than the revenues received, or the costs avoided, by Western for providing such benefits less actual reasonable administrative costs incurred by Western in managing the integrated operations that are not payable from appropriations for Western operations. Western shall provide the Contractor an opportunity to review, ~~discuss, and~~ comment on, and approve any ~~integration agreement with a length of three (3) years or longer prior to execution of such agreement~~ integrated operations agreement that may involve the use of Boulder Canyon Project Power, Ancillary Services or Ramping. For any services provided by Western using the benefit of integrated operations for which Western receives no revenue, the value of the services shall be the avoided costs that Western would have incurred to acquire those services from other sources than the Boulder Canyon Project. Any benefits or charges resulting from integrated operations shall be appropriately reflected in a line item in Western's budget.

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5.1.3 Voting on Western's Budget that will be used to calculate Rates:

5.1.3.1 In conducting the annual meeting with Western and the Contractors required by section 5.1.2 above, Western shall present its proposed budget for the following Fiscal Year for services provided pursuant to this Contract, and the Contractors shall vote to approve, or to disapprove the proposed budget, in whole or in part, according to the following procedures:

5.1.3.1.1 Each member of the Coordinating Committee, except the representatives of Reclamation and Western, shall be entitled to vote on the proposed budget. The votes of each voting member of the Coordinating Committee shall be weighted based on the value of the member's percentage of the Project as shown in Appendix G to the Boulder Canyon Project Implementation Agreement, provided that an affirmative vote of the Coordinating Committee shall require approval by both a majority of the weighted votes of the voting members of the Coordinating Committee and a majority of the weighted votes of voting members representing Contractors in at least two of the three Lower Colorado River Division States (Arizona, California, and Nevada). Reclamation and Western shall not have a vote on the Coordinating Committee for purposes of approval of the proposed budget.

5.1.3.1.2 For purposes of the Coordinating Committee voting processes, the Arizona Power Authority shall have the right to vote for Arizona Contractors that are not Indian Tribes, and the Colorado River Commission of Nevada shall have the right to vote for Nevada Contractors, including the City of Boulder City that are not Indian Tribes.

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5.2 ~~5.2~~ Undertaking of Western to Schedule Contract Capacity: Western shall schedule and measure, and the Contractor shall accept, the Contractor's Contract Capacity as set forth in this Contract.

~~5.2.1 Western Capacity: If the Uprating Program results in Rated Capacity equal to or greater than 1,951,000 kilowatts, Western, subject to reduction as provided in paragraph 5.2.5, shall be entitled to use the Output Capability in excess of 1,951,000 kilowatts, hereinafter called Western Capacity, only for the purpose of meeting Western's contractual obligations to provide firm capacity at the Federal Projects on the Colorado River. Any such capacity not used by Western for the purpose specified above shall be made available to Schedule A and Schedule B Contractors as determined in paragraphs 5.2.2 and 5.2.3.~~

5.2.2 ~~5.2.2~~ Determination of Excess Capacity: Excess Capacity exists to the extent that the Output Capability ~~less any Western Capacity~~ is greater than the ~~Rated Capacity~~ full name plate capacity of 2,074,000 kilowatts set forth in section 105(a)(2)(A) of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act. As provided in paragraph ~~5.2.3, 5.2.2,~~ Excess Capacity shall be shared pro rata among the Schedule A Contractors, the Schedule B Contractors, and the Schedule BD Contractors. ~~For the purposes of this paragraph, the value of Rated Capacity shall not exceed 1,951,000 kilowatts.~~ The determination of Excess Capacity is mathematically depicted as follows:

Excess Capacity = Output Capability – ~~Western Capacity~~ – Rated Capacity.

Excess Capacity can result from rehabilitation or replacement projects that improve the Output Capability of existing Hoover Powerplant or Hoover Dam facilities, but shall not include any

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increase in the Output Capability that results from an Uprating Program. Allocation of additional Output Capability resulting from an Uprating Program shall be governed by sections 5.2.2.2 and 5.2.7, below.

5.2.3 ~~5.2.3~~ Determination of Contractor’s Contract Capacity:

~~5.2.3.1~~ ~~————— If the Rated Capacity is less than 1,951,000~~

~~kW, the~~

5.2.3.1 Each Contractor, subject to reduction as provided in paragraph

~~5.2.5, 5.2.4,~~ is entitled to capacity determined as follows:

~~Schedule A Contractor’s~~ ~~————— Contractor’s~~ ~~————— 1 + Excess Capacity~~  
~~————— Contract Capacity~~ ~~————— =~~ ~~————— Table 1 Capacity~~ ~~————— x~~ ~~————— Rated Capacity~~

~~Schedule B Contractor’s~~  
~~————— Contract Capacity~~ ~~————— =~~

~~————— Contractor’s Table 2 Percentage~~ ~~————— Rated Capacity~~ ~~————— 1,448,000 kW~~  
~~————— 100~~

~~————— 1 + Excess Capacity~~  
~~————— x~~ ~~————— Rated Capacity~~

~~5.2.3.2~~ ~~————— If the Rated Capacity is equal to or greater than~~

~~1,951,000 kW, the Contractor, subject to reduction as provided in paragraph 5.2.5, is~~

~~entitled to capacity determined as follows:~~

~~Schedule A Contractor’s~~ ~~————— Contractor’s~~ ~~————— x~~ ~~————— 1 + Excess Capacity~~  
~~————— Contract Capacity~~ ~~————— =~~ ~~————— Table 1 Capacity~~ ~~————— 1,951,000 kW~~

~~Schedule B Contractor’s~~ ~~————— Contractor’s~~ ~~————— x~~ ~~————— 1 + Excess Capacity~~  
~~————— Contract Capacity~~ ~~————— =~~ ~~————— Table 2 Capacity~~ ~~————— 1,951,000 kW~~

<u>Schedule A Contractor’s</u>	<u>≡</u>	<u>Contractor’s Table 1 Capacity</u>	<u>X</u>	<u>1 + Excess Capacity / 2,074,000 kw</u>
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<u>Contract Capacity</u>				
<u>Schedule B Contractor's Contract Capacity</u>	$\equiv$	<u>Contractor's Table 2 Capacity</u>	<u>X</u>	<u>1 + Excess Capacity /2,074,000 kw</u>
<u>Schedule D Contractor's Contract Capacity</u>	$\equiv$	<u>Contractor's Table 3 Capacity</u>	<u>x</u>	<u>1 + Excess Capacity /2,074,000 kw</u>

TABLE 1

SCHEDULE A CONTINGENT CAPACITY  
~~AND SCHEDULE A CONTINGENT~~  
~~CAPACITY~~ ALLOCATIONS EXPRESSED AS A PERCENTAGE  
OF TOTAL SCHEDULE A CONTINGENT CAPACITY

<u>Contractor</u>	<u>Schedule A Contingent Capacity</u>	
	<u>(kW)</u>	<u>(%)</u>
<del>Metropolitan Water District of Southern California</del>	<del>247,500</del>	<del>17.0925</del>
<del>City of Los Angeles</del>	<del>490,875</del>	<del>33.9002</del>
<del>Southern California Edison Company</del>	<del>277,500</del>	<del>19.1644</del>
<del>City of Glendale</del>	<del>18,000</del>	<del>1.2431</del>
<del>City of Pasadena</del>	<del>11,000</del>	<del>0.7597</del>
<del>City of Burbank</del>	<del>5,125</del>	<del>0.3539</del>
<del>Arizona Power Authority</del>	<del>189,000</del>	<del>13.0525</del>
<del>Colorado River Commission of Nevada</del>	<del>189,000</del>	<del>13.0525</del>

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<u>United States, for</u>		
<del>Boulder City</del>	<del>20,000</del>	<del>1.3812</del>
<del>Totals</del>	<del>1,448,000</del>	<del>100.0000</del>

<u>Contractor</u>	<u>Schedule A Contingent Capacity</u>	
	<u>(kW)</u>	<u>%</u>
<u>Metropolitan Water District of Southern California</u>	<u>249,948</u>	<u>17.0925</u>
<u>City of Los Angeles</u>	<u>495,732</u>	<u>33.9003</u>
<u>Southern California Edison Company</u>	<u>280,245</u>	<u>19.1644</u>
<u>City of Glendale</u>	<u>18,178</u>	<u>1.2431</u>
<u>City of Pasadena</u>	<u>11,108</u>	<u>0.7596</u>
<u>City of Burbank</u>	<u>5,176</u>	<u>0.3540</u>
<u>Arizona Power Authority</u>	<u>190,869</u>	<u>13.0525</u>
<u>Colorado River Commission of Nevada</u>	<u>190,869</u>	<u>13.0525</u>
<u>United States, for Boulder City</u>	<u>20,198</u>	<u>1.3812</u>
<u>Totals</u>	<u>1,462,323</u>	<u>100.0000</u>

Due to rounding, the percentage column does not add to 100%.

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TABLE 2

SCHEDULE B CONTINGENT CAPACITY<sup>+</sup>  
~~RESULTING FROM THE UPRATING PROGRAM AND SCHEDULE B~~  
~~CAPACITY~~ ALLOCATIONS EXPRESSED AS A PERCENTAGE  
 OF TOTAL SCHEDULE B CONTINGENT CAPACITY

<u>Contractor</u>	<u>Schedule B Contingent Capacity</u>
	(kW) <sup>+</sup> (%)

~~Arizona: Arizona~~

<del>Power Authority</del>	<del>188,000 37.3757</del>
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~~Nevada: Colorado~~

<del>River Commission</del>	<del>188,000 37.3757</del>
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<u>Contractor</u>	<u>Schedule B Contingent Capacity</u>	
	<u>kW</u>	<u>%</u>
<u>City of Glendale</u>	<u>2,020</u>	<u>0.3977</u>
<u>City of Pasadena</u>	<u>9,089</u>	<u>1.7893</u>
<u>City of Burbank</u>	<u>15,149</u>	<u>2.9822</u>
<u>City of Anaheim</u>	<u>40,396</u>	<u>7.9523</u>
<u>City of Azusa</u>	<u>4,039</u>	<u>0.7951</u>
<u>City of Banning</u>	<u>2,020</u>	<u>0.3977</u>
<u>City of Colton</u>	<u>3,030</u>	<u>0.5965</u>
<u>City of Riverside</u>	<u>30,296</u>	<u>5.9640</u>
<u>City of Vernon</u>	<u>22,218</u>	<u>4.3738</u>
<u>Arizona: Arizona Power Authority</u>	<u>189,860</u>	<u>37.3757</u>
<u>Nevada: Colorado River Commission</u>	<u>189,860</u>	<u>37.3757</u>
<u>Totals</u>	<u>507,977</u>	<u>100.0000</u>

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TABLE 3

California:

<del>City of Anaheim</del>	<del>40,000</del>	<del>7.9523</del>
<del>City of Azusa</del>	<del>4,000</del>	<del>0.7952</del>
<del>City of Banning</del>	<del>2,000</del>	<del>0.3977</del>
<del>City of Burbank</del>	<del>15,000</del>	<del>2.9821</del>
<del>City of Colton</del>	<del>3,000</del>	<del>0.5964</del>
<del>City of Glendale</del>	<del>2,000</del>	<del>0.3976</del>
<del>City of Pasadena</del>	<del>9,000</del>	<del>1.7893</del>
<del>City of Riverside</del>	<del>30,000</del>	<del>5.9642</del>
<del>City of Vernon</del>	<del>22,000</del>	<del>4.3738</del>
<del>Totals</del>	<del>503,000</del>	<del>100.0000</del>

SCHEDULE D CONTINGENT CAPACITY

ALLOCATIONS EXPRESSED AS A PERCENTAGE

OF TOTAL SCHEDULE D CONTINGENT CAPACITY

~~<sup>±</sup> Based on Rated Capacity greater than or equal to 1,951,000 kW  
[insert table upon determination of new contractors]~~

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5.2.3.2 Uprating Program Capacity: Each Participating Contractor shall be entitled to its pro rata share of the increased capacity available as a result of an Uprating Program based on the funding share of the Uprating Program paid by the Participating Contractor.

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5.2.4 ~~5.2.4~~ Determination of Reductions in Contract Capacity ~~and Western Capacity~~: Reductions in Contract ~~Capacity and Western~~ Capacity may result due to ~~forced or planned outages, the Upgrading Program as scheduled by Reclamation,~~ Forced or Planned Outages, or river operations or reservoir drawdown.

5.2.4.1 ~~5.2.4.1~~ ~~Any reduction in capacity due to a reduction in generating capacity or in the use of capacity of the Hoover Powerplant, whether scheduled or unscheduled, shall be determined by Reclamation.~~

5.2.4.2 ~~5.2.4.2~~ ~~Any reduction in capacity due to a reduction in transfer capability, whether scheduled or unscheduled, of the Boulder Canyon Project transmission or delivery system, shall be determined by Western.~~

5.2.5 ~~5.2.5~~ Allocation of Reductions in Contract Capacity ~~and Western Capacity~~: Reductions in the Contractor's Contract Capacity ~~and Western Capacity~~ shall be allocated as follows:

5.2.5.1 ~~5.2.5.1~~ ~~Any such reductions in capacity shall first be made from Excess Capacity available and shall be borne pro rata by the Schedule A~~ and ~~Schedule B~~ and Schedule D Contractors receiving Excess Capacity.

~~5.2.5.2~~ ~~Any such reductions in capacity shall secondly be borne by the Western Capacity to the extent that such Western Capacity exists.~~

5.2.5.2 ~~5.2.5.3~~ ~~Any further such reductions in capacity shall then be borne by:~~ Any further such reductions in capacity shall then be borne by: Schedule A, Schedule B and Schedule D Contractors on a pro rata basis.

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5.2.5.3 (i) ~~Schedule B Contractors on a pro rata basis if the reduction is due to the Uprating Program as scheduled by Reclamation. To the extent such reduction exceeds the Contract Capacity of the Schedule B Contractors, the remaining reduction shall be borne by Schedule A Contractors on a pro rata basis.~~

~~(ii) —~~

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~~Schedule A and Schedule B Contractors on a pro rata basis if the reduction is due to a reason other than the scheduling of the reduction pursuant to the Upgrading Program. To the extent such reduction exceeds the Contract Capacity of the Schedule B Contractors, the remaining reduction shall be borne by Schedule A Contractors on a pro rata basis.~~

5.2.6 Determination and Allocation of Reductions in Upgrading Program Capacity:

Reductions in capacity that is allocated to a Participating Contractor based on an Upgrading Program may result due to Forced or Planned Outages, or river operations or reservoir drawdown that reduce or eliminate the generating capacity of the Upgrading Program facilities. Any reduction in capacity due to reduced generating capacity or use of Upgrading Program facilities shall be determined by Reclamation, and any reduction in capacity due to reduced transfer capability or use of Upgrading Program or Boulder Canyon Project transmission or delivery facilities shall be determined by Western. Reductions in capacity allocated to a Participating Contractor based on an Upgrading Program shall be borne pro rata by the Participating Contractors in that Upgrading Program.

5.2.7 ~~5.2.6~~ Determination of Operability of Upgrading Program Increments and

~~Rated Capacity of Hoover Powerplant:~~ Reclamation shall determine when each increment of the an Upgrading Program becomes operable. Western and Reclamation shall then determine the Rated Capacity capacity made available by the Upgrading Program and Western shall provide written notice thereof to the of each Participating Contractor's pro rata share of the Upgrading Program capacity to all the Contractors.

5.2.8 ~~5.2.7~~ Schedule B Contingent Increased Capacity Resulting From the an

Upgrading Program: As each increment of the an Upgrading Program becomes operable, the

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increase in ~~Rated Capacity~~capacity shall be made available to each Schedule A, Schedule B and Schedule D Contractor ~~as determined in paragraphs 5.2.3 and 5.2.5~~which has participated in the Uprating Program in proportion to the share of the cost of the Uprating Program contributed by each Participating Contractor. The Contract Capacity of each Participating Contractor shall be adjusted accordingly, but for purposes of calculating the rates and charges the costs of the Uprating Program shall be allocated on a pro rata basis among the Participating Contractors only.

5.2.9 ~~5.2.8~~—Limitations on Energy Deliveries: Electric energy shall be delivered to the Contractor in quantities which the Contractor may from time to time schedule, up to the Contract Capacity the Contractor is entitled to receive. The simultaneous rate of delivery of Firm Energy and Excess Energy at the ~~point~~Point(s) of ~~delivery~~Delivery shall not exceed the ~~Contractor's~~ Contract Capacity which the Contractor is entitled to receive. Said Contract Capacity shall be available in any hour within the Billing Period except for reductions pursuant to ~~paragraphs 5.2.3 and~~paragraph 5.2.4, and if applicable, paragraph 5.2.5. During ~~the Uprating Period or during~~ any period when the quantity of Contract Capacity available to the Contractor is not sufficient to deliver the Contractor's Firm Energy and Excess Energy entitlements, the simultaneous rate of delivery at the ~~point~~Point(s) of ~~delivery~~Delivery may be allowed to exceed the Contractor's Contract Capacity on an interruptible basis, subject to the availability of generating ~~capability~~capacity.

~~5.2.9 Reinstatement of Uprating Program: If the Uprating Program is terminated by Reclamation prior to completion and is subsequently reinstated in whole or in part, as each increment of the Uprating Program becomes operable, the increase in Rated Capacity shall be allocated pursuant to the provisions of paragraph 5.2.7.~~

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5.3 ——— ~~5.3~~ Undertaking of Western to Schedule Firm Energy and Excess Energy: Western shall schedule, deliver, and measure, and the Contractor shall accept Firm Energy and Excess Energy, as follows:

5.3.1 ——— ~~5.3.1~~ Schedule A Firm Energy: The allocations of Schedule A Firm Energy are as follows:

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TABLE 34

SCHEDULE A FIRM ENERGY

<u>Contractor</u>	<u>Firm Energy</u> <u>(Thousands of kWh)</u>		
	<u>Summer</u>	<u>Winter</u>	<u>Total</u>
<u>Metropolitan Water</u>			
<u>—District of Southern</u>			
<u>—California</u>	<u>904,382</u>	<u>387,592</u>	<u>1,291,974</u>
<u>City of Los Angeles</u>	<u>488,535</u>	<u>209,658</u>	<u>698,193</u>
<u>Southern California</u>			
<u>—Edison Company</u>	<u>175,486</u>	<u>75,208</u>	<u>250,694</u>
<u>City of Glendale</u>	<u>47,398</u>	<u>20,313</u>	<u>67,711</u>
<u>City of Pasadena</u>	<u>40,655</u>	<u>17,424</u>	<u>58,079</u>
<u>City of Burbank</u>	<u>14,811</u>	<u>6,347</u>	<u>21,158</u>
<u>Arizona Power Authority</u>	<u>452,192</u>	<u>193,797</u>	<u>645,989</u>
<u>Colorado River Commission</u>			
<u>—of Nevada</u>	<u>452,192</u>	<u>193,797</u>	<u>645,989</u>
<u>United States, for</u>			
<u>—Boulder City</u>	<u>56,000</u>	<u>24,000</u>	<u>80,000</u>
<u>Totals</u>	<u>2,631,651</u>	<u>1,128,136</u>	<u>3,759,787</u>

<u>Contractor</u>	<u>Firm Energy</u> <u>(thousands of kWh)</u>		
	<u>Summer</u>	<u>Winter</u>	<u>Total</u>
<u>Metropolitan Water District of Southern California</u>	<u>859,163</u>	<u>368,212</u>	<u>1,227,375</u>
<u>City of Los Angeles</u>	<u>464,108</u>	<u>199,175</u>	<u>663,283</u>

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<u>Contractor</u>	<u>Firm Energy</u> <u>(thousands of kWh)</u>		
	<u>Summer</u>	<u>Winter</u>	<u>Total</u>
<u>Southern California Edison Company</u>	<u>166,712</u>	<u>71,448</u>	<u>238,160</u>
<u>City of Glendale</u>	<u>45,028</u>	<u>19,297</u>	<u>64,325</u>
<u>City of Pasadena</u>	<u>38,622</u>	<u>16,553</u>	<u>55,175</u>
<u>City of Burbank</u>	<u>14,070</u>	<u>6,030</u>	<u>20,100</u>
<u>Arizona Power Authority</u>	<u>429,582</u>	<u>184,107</u>	<u>613,689</u>
<u>Colorado River Commission of Nevada</u>	<u>429,582</u>	<u>184,107</u>	<u>613,689</u>
<u>United States, for Boulder City</u>	<u>53,200</u>	<u>22,800</u>	<u>76,000</u>
<u>Totals</u>	<u>2,500,067</u>	<u>1,071,729</u>	<u>3,571,796</u>

5.3.2 ————— ~~5.3.2~~ Schedule B Firm Energy: The allocations of

Schedule B Firm Energy are as follows:

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TABLE 45

SCHEDULE B FIRM ENERGY

<u>Contractor</u>	<u>Firm Energy</u> <u>(thousands of kWh)</u>		
	<u>Summer</u>	<u>Winter</u>	<u>Total</u>
<u>City of Glendale</u>	<u>2,749</u>	<u>1,194</u>	<u>3,943</u>
<u>City of Pasadena</u>	<u>2,399</u>	<u>1,041</u>	<u>3,440</u>
<u>City of Burbank</u>	<u>3,604</u>	<u>1,566</u>	<u>5,170</u>
<u>City of Anaheim</u>	<u>34,442</u>	<u>14,958</u>	<u>49,400</u>
<u>City of Azusa</u>	<u>3,312</u>	<u>1,438</u>	<u>4,750</u>
<u>City of Banning</u>	<u>1,324</u>	<u>576</u>	<u>1,900</u>
<u>City of Colton</u>	<u>2,650</u>	<u>1,150</u>	<u>3,800</u>
<u>City of Riverside</u>	<u>25,831</u>	<u>11,219</u>	<u>37,050</u>
<u>City of Vernon</u>	<u>18,546</u>	<u>8,054</u>	<u>26,600</u>
<u>Arizona Power Authority</u>	<u>140,600</u>	<u>60,800</u>	<u>201,400</u>
<u>Colorado River Commission of Nevada</u>	<u>273,600</u>	<u>117,800</u>	<u>391,400</u>
<u>Totals</u>	<u>509,057</u>	<u>219,796</u>	<u>728,853</u>

5.3.3 Schedule D Firm Energy: The allocations of Schedule D Firm Energy are as follows:

TABLE 6

SCHEDULE D FIRM ENERGY

	<u>Firm Energy</u> <u>(Thousands of kWh)</u>		
<u>Contractor</u>	<u>Summer</u>	<u>Winter</u>	<u>Total</u>
)			

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Arizona: Arizona			
— Power Authority	148,000	64,000	212,000
Nevada: Colorado			
— River Commission	288,000	124,000	412,000
California:			
— City of Anaheim	36,255	15,745	52,000
— City of Azusa	3,486	1,514	5,000
— City of Banning	1,394	606	2,000
— City of Burbank	3,794	1,648	5,442
— City of Colton	2,789	1,211	4,000
— City of Glendale	2,894	1,257	4,151
— City of Pasadena	2,525	1,096	3,621
— City of Riverside	27,191	11,809	39,000
— City of Vernon	19,522	8,478	28,000
Subtotals,			
— California			
— Contractors	99,850	43,364	143,214
Totals	535,850	231,364	767,214

[to be drafted after new allocations]

5.3.4 — ~~5.3.3~~ Total of Schedule A ~~and~~ Schedule B and Schedule D Firm

Energy: The quantity of Firm Energy allocated to each Contractor expressed as a percentage of the aggregate of Schedule A ~~and~~ Schedule B and Schedule D Firm Energy allocated to all Contractors is as follows:

TABLE 57

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TOTAL OF SCHEDULE A, SCHEDULE B AND SCHEDULE BD FIRM ENERGY

<u>Contractor</u>	<u>FIRM ENERGY</u>	
	<u>Thousands of kWh</u>	<u>Percent</u>
Arizona: Arizona Power Authority	857,989	18.9527
Nevada: Colorado River Commission	1,057,989	23.3706
U.S. (Boulder City)	80,000	1.7672
California:		
—Anaheim	52,000	1.1487
—Azusa	5,000	0.1104
—Banning	2,000	0.0442
—Burbank	26,600	0.5876
—Colton	4,000	0.0884
—Glendale	71,862	1.5874
—Los Angeles	698,193	15.4229
—Metropolitan Water District of Southern California	1,291,974	28.5393
—Pasadena	61,700	1.3629
—Riverside	39,000	0.8615
—Southern California Edison Company	250,694	5.5377

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<del>Vernon</del>	<del>28,000</del>	<del>0.6185</del>
<del>Subtotals, California</del>		
<del>Contractors</del>	<del>2,531,023</del>	<del>55.9095</del>
<del>Totals</del>	<del>4,527,001</del>	<del>100.0000</del>
<u>[to be drafted after new allocations]</u>		

~~5.3.5~~ ~~5.3.4~~ Schedule C Excess Energy: The priority of

entitlement to Excess Energy is set forth in Schedule C, as follows:

SCHEDULE C EXCESS ENERGY

	<u>Priority of Entitlement to Excess Energy</u>	<u>State</u>
First:	<del>Meeting Arizona's first priority right to delivery of Excess Energy which is equal in each year of operation to 200 million kilowatthours: Provided, however, That in the event Excess Energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of Excess Energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year's 200 million kilowatthours. Said first right of delivery shall acerue at a rate of 200 million kilowatthours per year for each year Excess Energy in the amount of 200 million kilowatthours is not generated, less amounts of Excess Energy delivered.</del>	<del>Arizona</del>
Second:	<del>Meeting Hoover Dam contractual obligations under Schedule A of section 105(a)(1)(A) and under Schedule B of section 105(a)(1)(B) not exceeding 26 million kilowatthours in each year of operation.</del>	
Third:	<del>Meeting the energy requirements of the three States, such available Excess Energy to be divided equally among the States.</del>	<del>Arizona Nevada California</del>

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~~5.3.5~~ Third Priority Excess Energy for Use in California:

<u>Priority of entitlement to Excess Energy</u>	<u>State</u>
<u>First: Meeting Arizona’s first priority right to delivery of Excess Energy which is equal in each Year of Operation to 200 million kilowatthours: Provided, that in the event Excess Energy in the amount of 200 million kilowatthours is not generated during any Year of Operation, Arizona shall accumulate a first right to delivery of Excess Energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year’s 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year Excess Energy in an amount of 200 million kilowatthours is not generated, less amounts of Excess Energy delivered.</u>	<u>Arizona</u>
<u>Second: Meeting Hoover Dam contractual obligations under Schedule A, under Schedule B, and under Schedule D, not exceeding 26 million kilowatthours in each Year of Operation.</u>	<u>Arizona, Nevada, and California</u>
<u>Third: Meeting the energy requirements of the three States, such available Excess Energy to be divided equally among the States.</u>	<u>Arizona, Nevada, and California</u>

5.3.6 Third Priority Excess Energy for Use in California: Third priority Excess Energy available for use in California shall be made available in accordance with the following allocation which reflects the application of the formula set out in section 904.10(b) of the 1986 Western Regulations:

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TABLE ~~68~~

PERCENTAGE OF  
THIRD ~~PRIORITY~~PRIORITY EXCESS ENERGY  
FOR USE IN CALIFORNIA

<u>Contractor</u>	<u>Percent</u>
Anaheim	2.7265
Azusa	0.2687
Banning	0.1245
Burbank	1.3804
Colton	0.2065
Glendale	2.2692
Los Angeles	34.6455
Metropolitan Water District —of Southern California	36.0368
Pasadena	2.0685
Riverside	2.0449
Southern California Edison Company	16.7408
<u>[to be drafted after new allocations]</u>	
Vernon	1.4877
Total	100.0000

5.3.7 Transactions with Any Power System Entity: Contractor shall have the right to utilize Hoover Power, and to designate another entity that may utilize Hoover Power on its

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behalf, in transactions with Contractor's Power System Entity, and Western's performance of its obligations under this Contract shall not in any manner impede Contractor's exercise of such right.

5.4 Energy Entitlement:

5.4.1 ~~5.4.1~~ Seasonal Allocations: The Contractor's Firm Energy and Excess Energy entitlements for the Summer Season and the Winter Season, and for each Billing period of the ensuing twelve (12)-month period shall be set forth in the Master Schedule. Total Firm Energy and Excess Energy available shall be the gross energy that would have been produced at the Hoover Powerplant without any loss of efficiency for providing ~~ramping~~Ramping, reserves, and ~~regulation~~Regulation (S<sub>L</sub> in Exhibit C) less station ~~service~~services use (exclusive of motoring energy) less transformer and transmission losses to the ~~point~~Point(s) of ~~delivery~~Delivery at the Hoover Powerplant switchyards and Mead Substation.

5.4.2 ~~5.4.2~~ Allocation of Excess Energy: Whenever Excess Energy is available, Western shall deliver Excess Energy in accordance with the order of priority set forth in Schedule C, shown in ~~paragraph 5.3.4.~~section 5.3.5. After the first and second priority entitlement to Excess Energy has been obligated for delivery, Western shall make available one-third of the third-priority Excess Energy to Arizona, one-third to Nevada, and one-third to the California Contractors according to the allocation in ~~paragraph 5.3.5.~~section 5.3.6.

~~5.4.3 Excess Energy During Transition Period: During the Transition Period, Excess Energy is available if energy generated at the Hoover Powerplant during that period exceeds 1,799.605 million kilowatthours (3,167.501 x 4,501.001/4,527.001 x 4/7). For purposes of apportioning such Excess Energy during the Transition Period to the priorities under Schedule C, the first priority shall be limited to 79.965 million~~

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~~kilowatthours (200.000 x 3,167.501/4,527.001 x 4/7) and the second priority limited to 10.396 million kilowatthours (26.000 x 3,167.501/4,527.001 x 4/7).~~

5.4.3 ~~5.4.4~~ Deficiencies in Firm Energy:

~~5.4.4.1 — During the Transition Period, Firm Energy shall be the quantity of 1,810.001 million kilowatthours generated at the Hoover Powerplant (3,167.501 x 4/7). To the extent that the actual generation at Hoover Powerplant during the Transition Period (less deliveries thereof to Arizona required by its first priority under Schedule C whenever actual generation in the Transition Period is in excess of 1,799.605 million kilowatthours) is less than 1,810.001 million kilowatthours, such deficiency shall be borne by each Contractor according to the percentages shown in paragraph 5.3.3.~~

5.4.3.1 ~~5.4.4.2~~ The difference between 4,527.001 million kilowatthours and 4,501.001 million kilowatthours of energy generation during any Fiscal Year ~~following the Transition Period~~ is deemed to be a deficiency in Firm Energy. To the extent that the actual generation at Hoover Powerplant in any Fiscal Year (less deliveries thereof to Arizona required by its first priority under Schedule C whenever actual generation in any Fiscal Year is in excess of 4,501.001 million kilowatthours) is less than 4,527.001 million kilowatthours, such deficiency shall be borne by each Contractor according to the percentages shown in paragraph ~~5.3.3~~ 5.3.4.

5.4.4 ~~5.4.5~~ Change in Characterization of Energy: When Excess Energy is forecast, scheduled, and delivered during ~~the Transition Period or~~ any Fiscal Year, and later during such period it is forecast that only Firm Energy or a reduced quantity of Excess Energy deliveries can be made, the amount of over-delivered Excess Energy shall be accounted for in an

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energy delivery deviation account. The return of energy to Western by the Contractor receiving such over-delivered Excess Energy shall be made pursuant to written metering and scheduling instructions developed pursuant to paragraph 5.7.3 hereof. Unless otherwise agreed, this amount of energy shall be: (i) returned at mutually agreed upon points and rates of delivery within twelve (12) months after the date of notice of the change in characterization of energy; and (ii) ~~returned during On-Peak Hours~~ either (a) returned during the same season in which it was used, or (b) returned during a season other than the one in which it was used, in which case the change in season shall be reflected in a bill credit or debit. Deliveries of such energy returned by the Contractor shall not affect the rights of other Contractors.

5.4.5 ~~5.4.6~~ Minimum Schedules: The ~~contractor~~ Contractor may be required by Western to schedule its pro rata share of the minimum rate of delivery of energy during Off-Peak Hours as provided in ~~this paragraph~~ section 5.4.5.

5.4.5.1 ~~5.4.6.1~~ The Contractor's hourly minimum rate of delivery of energy as a result of Reclamation complying with required minimum water releases shall be the lesser of (i) twenty-five percent (25%) of the Contractor's total Firm Energy for the Billing Period involved divided by the Off-Peak Hours for that period; or (ii) the Contractor's proportional share of total Firm Energy and Excess Energy for the Billing Period involved multiplied by the overall minimum rate of delivery of energy for required minimum water releases. Scheduled power purchases will not affect the minimum rate of delivery required by minimum water releases.

5.4.5.2 ~~5.4.6.2~~ In addition to the minimum rate of delivery requirements under subparagraph ~~5.4.6.1~~ 5.4.5.1, if the Contractor has requested the purchase of

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Firming Energy, the Contractor's hourly minimum rate of delivery of energy purchased by Western for the Contractor pursuant to ~~this paragraph~~ section 5.4.5 shall be Contractor's proportional share of the total energy purchased by Western for all Contractors requesting such purchases times the overall minimum rate of delivery of all such purchased energy as determined by Western.

5.4.6 ~~5.4.7~~ Purchases of Firming Energy: At the written request of the Contractor and at the Contractor's expense, Western shall purchase energy to meet that Contractor's Firm Energy ~~deficiency~~ Deficiency. The price of Firming Energy shall be billed monthly at Western's estimated annual average purchase price for ~~firming energy~~ Firming Energy, adjusted to the actual price, without interest, as soon after the end of the Fiscal Year as such prices can be determined. Such firming arrangements are to be evidenced by prior written agreement between the Parties. The price to the Contractor for Firming Energy purchased for the Contractor from sources other than the Federal Projects on the Colorado River shall not include the Lower Colorado River Basin Development Fund Contribution Charge, or the MSCP Charge.

5.4.7 ~~5.4.8~~ Lay off of Energy: Western shall, at the Contractor's request, attempt to lay off all or part of the Firm Energy or Excess Energy the Contractor declares to be available for lay off, first to other Contractors in the same state (for California, in accordance with the percentages set forth in ~~paragraph 5.3.5~~ section 5.3.6) and then to the other Contractors, and then to any potential purchaser. No other Contractor shall be obligated to accept any lay off of Firm Energy or of Excess Energy. The rate to be paid by a purchaser agreeing to accept ~~lay off~~ layoff of Firm Energy or ~~of~~ Excess Energy shall be the rate that would have been paid by the Contractor requesting the ~~lay off~~ layoff of such energy or at the best

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lesser rate obtainable, at the time the energy was delivered, including charges referenced in section 6.3.3, below. Unless the applicable state funding agreement for the MSCP charge payable pursuant to section 6.4 provides otherwise, a Contractor requesting Western to lay off Firm Energy or Excess Energy shall not be relieved of its obligation to pay the MSCP charge pursuant to the applicable state or federal funding agreement. A Contractor requesting Western to lay off Firm Energy or Excess Energy shall not be relieved of its obligation to pay for such Firm Energy or Excess Energy ~~except as provided in Article 28 of the General Power Contract Provisions, or make the associated payments for Lower Colorado River Basin Development Fund obligations,~~ but any revenues received by Western under ~~this paragraph~~ section 5.4.7 shall be credited against the requesting Contractor's obligation.

5.5 Procedure for Scheduling Quantities of Energy Available:

5.5.1 ~~5.5.1~~ Integration of Boulder Canyon Project: Western will use the Boulder Canyon Project with other resources available in order to make the deliveries of Hoover Power from the Boulder Canyon Project more useful to the Contractors. Western and the Contractors will identify the terms of transactions that will permit Western to accomplish this goal. In the event that said terms are agreed upon by Western and the Contractor as evidenced by the Contractor's acceptance of the Master Schedule as provided in paragraph 5.5.7, Western will finalize the arrangements for the transactions. Acceptance of such integration shall be at the sole discretion of the Contractor as provided in this ~~subsection~~ section 5.5. Such integration shall not impair the rights of any other Contractor.

5.5.2 ~~5.5.2~~ Preparation of Draft Release Pattern Schedule:

Prior to May 1 of each year, Western shall furnish to the Contractor for review (i) Reclamation's

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estimated annual operation schedule for the Hoover Powerplant showing estimated power generation and estimated ~~maintenance and Upgrading Program outages~~Planned Outages; (ii) a draft release pattern schedule showing the best forecast of energy and a tabulation of forecasted capacity available to ~~the Contractors~~Contractor during the ensuing ~~twelve~~eighteen (~~12~~18)-month period beginning on June 1, by months, from the Boulder Canyon Project; and (~~iii~~ii) a listing of proposed transactions, including Firming Energy purchases, banking exchanges between Federal Projects on the Colorado River, and the resulting energy projected to be available to ~~the Contractors~~Contractor during the ensuing ~~twelve~~eighteen (~~12~~18)-month period beginning on June 1, by months, through integration of the Boulder Canyon Project with other projects and sources available to Western.

5.5.3 ~~5.5.3~~ Contractor's Proposed Delivery Schedule: Within fifteen (15) days after receipt of the information listed in paragraph 5.5.2, the Contractor shall submit to Western comments on the draft release pattern schedule and ~~outage schedule~~Planned Outage Schedule, and submit proposed schedules of the Contractor's use of capacity, Firm Energy, Firming Energy, Excess Energy, by months, for the ~~twelve~~eighteen (~~12~~18)-month period beginning ~~on~~ June 1 and extending through ~~May 31~~September 30 of the next year.

5.5.4 ~~5.5.4~~ Preliminary Release Pattern Schedule and Preliminary Integration Schedule: Western shall thereupon prepare and furnish to ~~the Contractors~~Contractor a preliminary release pattern schedule and preliminary integration schedule for the ensuing twelve (12)-month period beginning on June 1, taking into consideration to the extent possible the Contractor's proposed schedules.

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5.5.5 Submission of Alternative Schedules by Contractor: The Contractor shall have ten (10) days from receipt of the preliminary release pattern schedule and preliminary integration schedule to submit alternative schedules for delivery of its Firm Energy, Firming Energy, and Excess Energy.

5.5.6 Issuance of Final Release Pattern Schedule and Integration Schedule: Western shall meet with all interested Contractors to review the preliminary release pattern schedule, preliminary integration schedule, [banking exchanges between Federal Projects on the Colorado River](#), alternative schedules, power rates as provided in section 7, and any other items suggested by a Contractor. Western shall provide written notice to each Contractor of the date and location of such meeting. After Western has considered the information provided by the Contractor(s) prior to or at such meeting, it shall issue the final release pattern schedule and integration schedule.

5.5.7 ~~5.5.7~~ Contractor's Options: Within five (5) days after receipt of the final release pattern schedule and integration schedule, the Contractor shall then (i) ~~choose~~chuse between the aforementioned final release pattern schedule or integration schedule and (ii) specify the quantity of Firming Energy, if any, to be purchased by Western on behalf of the Contractor. The Contractor's choice of such schedules shall become the Master Schedule for that Contractor for the ensuing twelve (12)-month period, beginning ~~June~~October 1. If the Contractor chooses the release pattern schedule, its rights under this Contract shall not be diminished or impaired. Western shall furnish a Master Schedule to each Contractor showing the combined deliveries to all Contractors. The then current Master Schedule shall become an attachment to Exhibit B.

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5.5.8 ~~5.5.8~~ Revisions of Master Schedule: In the event of ~~forced-outages~~ Planned Outages and Forced Outages, or a change in forecasted river operations or in ~~scheduled-outages~~ Planned Outages that ~~necessitates~~ necessitate a revision of the then effective Master Schedule, a revised Master Schedule shall be furnished to ~~the Contractors~~ Contractor as soon as possible after the data become available. Western shall consider any information submitted by the Contractor regarding such revised Master Schedule and shall make changes in such revised Master Schedule as Western deems appropriate.

5.6 Use of Generation:

5.6.1 ~~5.6.1~~ Scheduling Generation: Within the constraints of ~~outages~~ Outages, river operations, or reservoir drawdown, and to the extent the Contractor does not exceed its energy entitlement, ~~emergencies~~ Emergencies excepted, the Contractor shall have the right to schedule Loaded Synchronized Generation and Unloaded Synchronized Generation, the sum of which shall not exceed the Contractor's Contract Capacity. Synchronized Generation shall be scheduled in advance no later than the last Normal Business Day prior to delivery, ~~emergencies~~ Emergencies excepted, and accounted for on the basis of such advance schedules, all in accordance with metering and scheduling instructions agreed upon pursuant to paragraph 5.7.3 hereof. The metering and scheduling instructions will provide for modifying such schedules to the needs of day-to-day or hour-by-hour operation.

5.6.2 ~~5.6.2~~ Regulation, Ancillary Services and Ramping, and Spinning Reserves: Subject to paragraph 5.6.1, the Contractor, through use of a dynamic signal from the Contractor or a Scheduling Entity to a control center designated by Western, or through such other methods and procedures agreed upon by the Contractor and Western, shall have the

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right to use previously scheduled Synchronized Generation for ~~regulation, ramping~~Regulation, Ramping from zero to full scheduled Synchronized Generation and the reverse, and ~~spinning reserves; Provided, That~~Ancillary Services; provided, that a Contractor's use of ~~Schedule B~~ Contract Capacity for ~~regulation, ramping, and spinning reserves~~Ancillary Services shall not (i) have ~~an undue~~ detrimental effect on power system equipment at Hoover Powerplant or on river operations, as determined by Reclamation pursuant to ~~subparagraph 5.2.4.1~~section 5.2.3.1; (ii) impair the rights of other Contractors to use ~~Schedule A Contract Capacity for regulation, ramping, and spinning reserves; or (iii) have a detrimental effect on Western's ability to utilize the Boulder Canyon Project to optimize the operation of the Boulder City Area Projects and Federal Projects on the Colorado River~~Contract Capacity for Ancillary Services. If the Contractor's use of ~~Schedule B~~ Contract Capacity for ~~regulation, ramping, and spinning reserves~~Ancillary Services does impair such rights or have such detrimental effect, Western may restrict the Contractor's use of ~~Schedule B~~ Contract Capacity for ~~regulation, ramping, and spinning reserves will be restricted~~Ancillary Services to the extent necessary and for as long as the condition continues to exist or until the impairment or detrimental effect is corrected. Western shall promptly consult with ~~the Contractors~~Contractor and determine with ~~the Contractors~~Contractor how such impairment or detrimental effect may be corrected. ~~If restriction on the use of the Contractor's Schedule B Contract Capacity is due to the impairment of Western's ability to utilize the Boulder Canyon Project to optimize the operation of the Boulder City Area Projects and Federal Projects on the Colorado River, Western shall not reduce the Contractor's use of Schedule B Contract Capacity for regulation, ramping, and spinning reserves below seventy-five percent (75%) of the Contractor's Schedule B Contract Capacity for regulation, ramping, and spinning reserves.~~

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5.6.3 ———— ~~5.6.3~~ Scheduling Under Emergency Conditions:

During ~~emergencies~~Emergencies, the Contractor shall have the right for up to twelve (12) hours, to schedule capacity in excess of previously scheduled amounts, up to its Contract Capacity to the extent capacity is available. In the event that delivery of energy during ~~emergencies~~Emergencies causes the Contractor's monthly energy entitlement to be exceeded, the energy delivered in excess of the monthly energy entitlement shall be returned to Western ~~during On-Peak Hours~~ within seven (7) days of the occurrence of the ~~emergency~~Emergency or as otherwise agreed. For purposes of ~~this paragraph~~section 5.6.3 and ~~paragraph~~section 5.6.1, an ~~emergency~~Emergency will be determined by the Contractor based upon ~~standard utility practice~~Good Industry Practice.

5.6.4 ———— ~~5.6.4~~ Accounting for Use of Unloaded Synchronized

Generation: The Contractor's use of energy to support the use of Unloaded Synchronized Generation for ~~regulation, ramping, and spinning reserves~~Ancillary Services and Ramping in any Billing Period shall be accounted for by a reduction during the corresponding On-Peak Hours and Off-Peak Hours in the Contractor's energy entitlement in the following Billing Period, or as soon thereafter as practicable, unless the written metering and scheduling instructions agreed to pursuant to paragraph 5.7.3 set forth procedures for returning such energy from sources available to the Contractor other than the Hoover Powerplant during ~~On~~the corresponding On-Peak Hours and Off-Peak Hours in the following Billing Period or as soon thereafter as practicable. The amount of the reduction during On-Peak Hours and Off-Peak Hours in the Contractor's monthly energy entitlement shall be the Contractor's proportional share of the energy used to support Unloaded Synchronized Generation for the benefit of all Schedule A ~~and~~, Schedule B and Schedule D Contractors, and shall (i) correspond to the Contractor's use of energy during On-Peak

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Hours and Off-Peak Hours, as applicable, to support the use of Unloaded Synchronized Generation that gave rise to the reduction and (ii) be determined in accordance with Exhibit C. The procedure for reducing the Contractor's energy entitlement or for returning energy under this paragraph 5.6.4 shall be set forth in the written metering and scheduling instructions.

5.6.5 ———— ~~5.6.5~~ Scheduling Entity: In addition to the Authorized Representative(s) designated in section 13, if the Contractor desires to use Hoover Powerplant capacity dynamically, the Contractor shall designate, by written notice to Western, a Scheduling Entity responsible for scheduling the Contractor's Hoover Powerplant capacity entitlement. Said Scheduling Entity must be designated at least sixty (60) days prior to energy deliveries to said Scheduling Entity on behalf of the Contractor. The Contractor may change its Scheduling Entity upon sixty (60) days' written notice to Western, said change to become effective at the beginning of the Billing Period immediately following the end of such notice period. In the event that the Contractor designates a Scheduling Entity which is also designated by other Contractors, energy deliveries shall be prorated among the Contractors for whom the Scheduling Entity dynamically schedules generation, unless otherwise agreed to in writing by the Contractor(s) and such Scheduling Entity and approved by Western. Said prorations shall be for a Billing Period and in the proportions that their respective Firm Energy and Excess Energy entitlements bear to the aggregate Firm Energy and Excess Energy entitlements of the Contractors for whom the Scheduling Entity dynamically schedules generation. In the event that the Contractor dynamically schedules generation through a Scheduling Entity that is a Hoover Contractor, energy reductions as provided in paragraph 5.6.4 shall, as between Western and the Scheduling Entity, be borne by the Scheduling Entity in the absence of other agreement approved by Western. In the event that

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the Contractor dynamically schedules generation through a Scheduling Entity that is not a Hoover Contractor, energy reductions shall be borne by the Contractor. The procedures for metering and scheduling dynamically shall be included in the written metering and scheduling instructions pursuant to paragraph 5.7.3 hereof.

~~5.6.6 Interim Agreement for Power Generation Control at Hoover Powerplant: Western, Reclamation, and the Department of Water and Power of the City of Los Angeles entered into the Interim Agreement for Power Generation Control at Hoover Powerplant dated December 31, 1984. The implementation of said agreement shall not be permitted to impair the Contractor's rights to delivery of capacity and energy hereunder. Such rights include the use by the Contractor of Synchronized Generation for regulation, ramping, and spinning reserves.~~

5.7 Coordination of Power System:

~~5.7.1 Reactive Power:~~ Except as Authorized Representatives of the Parties may from time to time otherwise agree, each Party shall provide or cause to be provided, in accordance with Good Industry Practice, the reactive kilovoltamperes required for the supply of its reactive power requirements and its share of the reactive requirements for voltage control at points of interconnection between Western and the Contractor, or between Western and the Contractor's supplier(s), subcontractor(s), agent(s), or customers. The Parties shall coordinate the utilization of generation control equipment, capacitors, or reactors to maintain transmission voltages and reactive flows at acceptable levels for full system performance and stability. It is each ~~Party~~ party's responsibility to effectuate agreement with its supplier(s), subcontractor(s), agent(s), or customers to satisfy its obligations hereunder. To the extent Western uses any reactive power of Hoover Powerplant for the benefit of an entity that is not a Contractor, Western shall charge the

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non-Contractor the posted Western Desert Southwest Region rate for the use of the reactive power and provide a credit to the Boulder Canyon Project for the payment received.

5.7.2 ~~5.7.2~~ Spinning Reserves: Each Party shall provide or cause to be provided its spinning reserve requirements for its load; ~~Provided, That~~ provided, that such reserves shall meet or exceed the minimum reserve criteria established by the ~~WSCC or a successor organization~~ NERC and WECC.

5.7.3 ~~5.7.3~~ Metering and Scheduling Instructions:  
Deliveries of Power shall be made pursuant to written metering and scheduling instructions developed and agreed upon by the Authorized Representatives, or between Western and the Scheduling Entity subject to the approval of the Authorized Representative of the Contractor, prior to ~~June~~ October 1, ~~1987,~~ 2017, detailing the operating arrangements and scheduling and accounting procedures to be used. Such written metering and scheduling instructions shall be developed in conformity with the following principles:

5.7.3.1 ~~5.7.3.1~~ Metering and scheduling instructions are intended to implement the terms of the Contract but not to modify or amend it and are, therefore, subordinate to this Contract.

5.7.3.2 ~~5.7.3.2~~ It is the Contractor's responsibility to effectuate agreement(s) with any third party or parties which may be necessary to enable the Contractor to accept deliveries hereunder.

5.7.3.3 ~~5.7.3.3~~ In the event the Contractor's Authorized Representative or Scheduling Entity fails or refuses to execute the initial metering and scheduling instructions or any revised instructions which Western determines to be necessary, Western shall

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develop and temporarily implement revised instructions until mutually acceptable instructions have been developed and executed by Western, the Scheduling Entity, and the Authorized Representative of the Contractor.

6. BILLINGS, PAYMENT, AND SCHEDULE OF RATES:

6.1 ~~6.1~~ General: The Contractor shall pay monthly for electric service hereunder in accordance with the rates developed pursuant to the 1986 Reclamation Regulations; (43 CFR Part 431) and the 1986 Western Regulations (10 CFR Part 904) and other applicable regulations, and; to the extent applicable, DOE Order RA 6120.2, as each may hereafter be amended or supplemented, and included in a rate schedule to be developed and attached hereto as Attachment No. 1 and by this reference made a part hereof. Any change of rates shall likewise be developed pursuant to the foregoing regulations and order, and subject to approval of the Coordinating Committee in accordance with sections 5.1.1, 5.1.2, and 5.1.3, above.

6.2 ~~6.2~~ Payment for Capacity: The Contractor shall pay for Contract Capacity as follows:

6.3 ~~6.2.1~~ The Contractor shall pay for all of its proportionate share of Schedule A Contingent Capacity (1,448,000 kilowatts) and its proportionate share of Schedule B Contingent Capacity completed under the Uprating Program (Rated Capacity less 1,448,000 kilowatts, not to exceed 503,000 kilowatts) at the then effective capacity  
6.3.1 ~~charge when~~ When the aggregate Contract Capacity available to all Contractors is equal to or greater than 1,000,000 kilowatts at any time during a Billing Period, the Contractor shall pay at the then effective capacity charge for all of its proportionate share of Schedule A, Schedule B and Schedule D Contingent Capacity plus Excess Capacity, and for each

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Participating Contractor, its proportionate share of capacity charges calculated to cover the cost of Uprating Programs, if any.

6.3.2 In the event that the aggregate Contract Capacity available to all Contractors is less than 1,000,000 kilowatts during an entire Billing Period, the Contractor shall pay the then effective capacity charge for the maximum quantity of Contract Capacity available to it at any time during the Billing Period; provided, that capacity charges calculated to cover the cost of an Uprating Program, if any, shall be paid by Participating Contractors based on their pro rata share of the increased capacity resulting from the Uprating Program.

6.3.3 ~~6.2.3~~ Revenue Insufficiency During Periods of Reduced Generation: In order to permit Reclamation to operate and maintain the facilities and generating capacity of the Boulder Canyon Project when generation has been reduced to a point where the revenues are insufficient to meet the cost of operation and maintenance, the Contractor shall pay a pro rata portion of any monthly deficiency as provided in this paragraph: 6.2.3, pursuant to the following requirements:

6.3.3.1 Throughout the term of the Contract, Reclamation shall, at least twice per year, perform the Trigger Study and shall provide written notice to Contractor whenever the Trigger Study indicates a 60% chance that Lake Mead will be operated in shortage condition (Lake Mead at or below 1075 feet on January 1) in any given year within a 10 year forecast. This notice shall notify Contractor of the amount of the anticipated reduction in Hoover Power generation, and the amount of the revenue shortfall which will result from this anticipated generation reduction.

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6.3.3.2 Within thirty days following issuance of the notice under paragraph 6.2.3.1, Reclamation and Western shall meet with the E&OC and agree upon the steps to be taken to reduce the costs of Reclamation and Western that are proposed to be included in the rates applied in the next Fiscal Year, in a manner that will place the highest priority on protecting future operation of the Hoover Powerplant. These cost reductions shall be reflected in a resolution approved by Western, Reclamation and the Coordinating Committee, which will identify the activities which will be reduced, the timeline for these reductions, the cost reduced by each activity change, and the impact of this cost reduction on Hoover Power rates.

6.3.3.3 ~~6.2.3.1~~ ~~If~~ Following the adoption of the resolution required under paragraph 6.2.3.2, if Reclamation estimates that for two or more consecutive Billing Periods, hereinafter referred to as the “Period of Insufficiency,” revenues from the sale of ~~Power from the Hoover Powerplant~~ Power will be insufficient to pay all of the operation and maintenance costs of the Boulder Canyon Project for the Period of Insufficiency, Reclamation shall notify Western and ~~Western shall notify the Contractor~~ the Contractors of the anticipated insufficiency. In making such estimates, Reclamation shall first apply all funds available under section 2(a) of the Boulder Canyon Project Adjustment Act, as amended, including anticipated revenues during the Period of Insufficiency and any other appropriated funds including emergency funds which are made available to Reclamation under any other applicable provision of ~~the law~~; to meet the insufficiency. If Reclamation determines that such available funds are inadequate to pay operation and maintenance costs, Reclamation shall notify Western indicating the estimated monthly deficiency to the end of the Period of Insufficiency. Western shall bill the Contractor for its pro rata share of the monthly deficiency in addition to the bill for capacity and energy actually

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made available. Such pro rata share shall be based fifty percent (50%) on the Contractor's percentage allocation of Contingent Capacity and fifty percent (50%) on the Contractor's percentage allocation of Firm Energy. The bill shall be rendered and paid in the normal billing cycle as set forth in Article ~~12~~13 of the General Power Contract Provisions attached hereto, and shall be a prepayment for power. Such prepayments shall be returned to the Contractor through deficiency payment credits on the monthly power bills issued by Western to the Contractor. The amount of the deficiency payment credit shall be equal to the proportionate share prepaid by the Contractor times the total monthly credit to all Contractors. The prepayments shall be returned as soon as practicable, but in no event later than September 30, ~~2017~~2067.

6.3.3.4 ~~6.2.3.2~~ The maximum obligation of the Contractor for such deficiencies shall be (a) zero on ~~June~~October 1, ~~1987~~2017, and shall increase as of the first day of each month at the rate of  $1/36^{\text{th}}$  of the Contractor's pro rata share of ~~twelve million~~ \_\_\_\_\_ dollars (~~\$12,000,000~~ \_\_\_\_\_) plus escalation as provided in the last sentence of this subparagraph ~~6.2.3.2~~6.2.3.4 until the total required to meet the Contractor's pro rata share of the ~~twelve million~~ \_\_\_\_\_ dollars (~~\$12,000,000~~ \_\_\_\_\_), as so escalated has been reached, minus (b) any deficiency payments made pursuant to subparagraph ~~6.2.3.1~~6.2.3.3, plus (c)  $1/36^{\text{th}}$  of each deficiency payment as provided in the next sentence until the total required to meet the Contractor's pro rata share of the ~~twelve million~~ \_\_\_\_\_ dollars (~~\$12,000,000~~ \_\_\_\_\_), as so escalated has been reached. In the event that the Contractor has been required to make deficiency payments pursuant to subparagraph ~~6.2.3.1~~6.2.3.3, the obligation of the Contractor under this subparagraph ~~6.2.3.2~~6.2.3.4 shall increase monthly at the rate of  $1/36^{\text{th}}$  of each payment or payments made during each period or periods of insufficiency

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pursuant to subparagraph ~~6.2.3.1; Provided~~6.2.3.3; provided, however, the Contractor's buildup of the obligation in (a) above and (c) above shall not accrue during any Billing Period unless the capacity available from the Hoover Powerplant is equal to, or in excess of, one million kilowatts (1,000,000 kW) and associated energy during the entire immediately preceding Billing Period. The Contractor's pro rate share of ~~twelve~~ \_\_\_\_\_ million dollars (~~\$12,000,000~~ \_\_\_\_\_), which is the estimated cost of operation and maintenance of the Boulder Canyon Project for Fiscal Year ~~1991,2017~~, may be escalated as follows:

On or before April 15, 1988 and on or before April 15<sup>th</sup> of each year thereafter, Reclamation shall include in cost data provided the Contractor under 43 CFR 431.5 estimates of the operation and maintenance costs of the Boulder Canyon Project for each of the next five Fiscal Years thereby giving the Contractor four years' notice of any resultant increase or decrease in the above estimated cost and the Contractor's pro rata share thereof.

6.3.3.5 ~~6.2.3.3~~ Within thirty (30) days after a billing to the Contractor under ~~subparagraph 6.2.3.1, section 6.2.3.3~~, Reclamation shall initiate and pursue a request to the U.S. Congress for appropriation of estimated deficiencies in funds to meet the operation and maintenance costs of Boulder Canyon Project. Amounts so appropriated shall be recovered as required by such ~~appropriation~~ appropriate language or as required in the Contract as annual operation and maintenance costs.

6.3.3.6 ~~6.2.3.4~~ In the event of damage to the Hoover Powerplant ~~and/or associated facilities~~, Reclamation shall, within sixty (60) days of the damage, make a determination of the extent of the damage. If such determination shows that: (i) the damage will result in more than six (6) consecutive billings under ~~6.2.3.1, section 6.2.3.3~~, (ii) it is economically feasible to repair such damage, and (iii) the estimated costs of repair is in excess of

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~~one~~ \_\_\_\_\_ million dollars (\$~~1,000,000~~ \_\_\_\_\_), Reclamation shall promptly request a readvance from the United States Treasury pursuant to section 5 of the Boulder Canyon Project Adjustment Act, in the amount deemed necessary to repair such damage to the ~~powerplant and/or associated facilities~~ Hoover Powerplant.

6.3.3.7 In the event the Hoover Powerplant is destroyed or rendered inoperable by drought conditions or other factors, and it is not economically feasible to continue operation of the Hoover Powerplant, Reclamation shall promptly notify the Contractors and make arrangements to suspend all operational activities and incur no further expenses chargeable to the Contractors, except as otherwise agreed by the Contractors, until such time as the Hoover Powerplant has been restored to operational condition. Other costs or financial obligations of the Contractors, if any, will be suspended and postponed until the Hoover Powerplant is restored to operational condition.

6.4 ~~6.3~~ Payment for Energy Deliveries: The Contractor shall pay for Firm Energy and Excess Energy as follows:

6.4.1 ~~6.3.1~~ The quantities of Firm Energy and Excess Energy deemed to be delivered and to be paid for shall be the quantities measured or scheduled to the Contractor by Western under this Contract.

6.4.2 ~~6.3.2~~ All Excess Energy shall be offered at the then effective Firm Energy rate.

6.4.3 ~~6.3.3~~ The Contractor shall pay the then effective energy charge and Lower Colorado River Basin Development Fund Contribution Charge on all energy

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measured or scheduled during the Billing Period, except as otherwise provided in ~~paragraphs 5.4.7 and 5.4.8.~~section 5.4.7.

6.4.4 ~~————— 6.4 ———~~ Prepayment of Certain Expenses during the Transition Period:

6.4.5 ~~————— 6.4.1 ———~~ ~~The Contractors shall prepay during the Transition Period their proportionate shares of operation, maintenance, and replacement expenses not to exceed in the aggregate three million dollars (\$3,000,000.00). The Contractor's pro rata share of operation, maintenance, and replacement expenses shall be based fifty percent (50%) on the Contractor's percentage allocation of Contingent Capacity and fifty percent (50%) on the Contractor's percentage allocation of Firm Energy. Statements shall be submitted by Western to each Contractor no later than thirty (30) days prior to the date on which such funds must be made available to Western. Remittance by each Contractor shall be made to Western by the last day of the Billing Period prior to the month the funds are needed; for example, funds needed for the month of June 1987 must be made available to Western on or before May 31, 1987.~~

6.4.6 ~~————— 6.4.2 ———~~ ~~Western shall deposit such funds into the Colorado River Dam Fund. Such funds shall be available to Reclamation for operation, maintenance, and routine replacements of the Boulder Canyon Project.~~

6.4.7 ~~————— 6.4.3 ———~~ ~~Funds prepaid by the Contractor pursuant to paragraph 6.4.1 shall be returned to the Contractor through credits on the monthly power bills issued by Western to the Contractor. The amount of the credit shall be equal to the proportionate share prepaid by the Contractor times the total monthly credit to all Contractors. Such funds prepaid by the Contractor shall be returned to the Contractor through credits by September 30, 1988.~~

6.4.8 ~~————— 6.5 ———~~ Credits for Prepayment of Power Charges: Pursuant to

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6.5 Payment of the MSCP Charge: The Contractor shall pay its proportionate share of its State's respective contribution (determined in accordance with each State's applicable funding agreement) to the cost of the Lower Colorado River Multi-Species Conservation Program (as defined in section 9401 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1327). Pursuant to the Hoover Power Allocation Act of 2011, Contractors which are Native American tribes shall pay a proportionate share of the respective contribution of the State in which the major portion of the tribal reservation lands is geographically located.

6.5.1 Schedule of Payments:

6.5.1.1 Each state's entity responsible for billing the respective state's MSCP charge shall on an annual basis, provide Western with a schedule of payments (Exhibit XX) due for each Contractor that is a Native American Tribe identifying its proportional share of MSCP charges by May of each year for the next MSCP year that begins in July.

6.5.1.2 Western shall provide to each Contractor that is a Native American Tribe with a copy of (Exhibit XX) Schedule of Payments identifying its proportional share of MSCP charges by May of each year for the next MSCP year that begins in July.

6.5.2 Billing:

6.5.2.1 Each state's entity responsible for billing the respective state's MSCP charge shall on a monthly basis, provide Western with an invoice identifying each Contractor that is a Native American Tribe's proportional share of MSCP charge for that month.

6.5.2.2 Western shall include in its monthly invoice to each Contractor that is a Native American Tribe its proportional share of MSCP charge for that month.

6.5.3 Payment of Invoices:

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6.5.3.1 Each Contractor that is a Native American Tribe shall promptly remit payment to Western for its proportional share of MSCP charge for that month.

6.5.3.2 Western shall remit payment to each state's entity responsible for each state's MSCP charge upon receipt of payment from each Contractor that is a Native American Tribe that has been billed its proportional share of MSCP charge for that month provided, that Western shall remit payments received from any Native American Tribe located in California directly to Reclamation for credit against California's cost share.

6.6 Recovery and Reimbursement of Repayable Advances: Pursuant to section 105(a)(5)(D) of the Hoover Power Plant Act, ~~the Schedule B Contractor is entitled to credits on the power bills rendered under this Contract to reflect the funds advanced by the Schedule B Contractor~~

6.7 ~~under the Reclamation Contract or the Interim Contract, or both, and the interest costs incurred by the Schedule B Contractor with respect to such funds; Provided, That a Schedule B Contractor shall not receive any credits or portions thereof on its power bills for any Billing Period unless sufficient funds are legally available for (i) the payment of operation, maintenance, and replacement costs of the Boulder Canyon Project; (ii) repayments to the Treasury, with interest, of advances or any readvances made to the Colorado River Dam Fund that may not be legally deferred; and (iii) in lieu of tax payments to the States of Arizona and Nevada. Any such credits or portions thereof not provided on power bills due to insufficient funds as provided in the preceding sentence shall be included in the Credit Carryforward. Such credits shall be computed and given in accordance with the following provisions:~~

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6.8 ~~6.5.1~~ Within thirty (30) days after the incurrence of any Indebtedness described in paragraph 6.5.2(i), or thirty (30) days after the execution and delivery of this Contract, whichever is later, the Schedule B Contractor shall deliver to Western and Reclamation a schedule setting forth the estimated amounts payable by or on behalf of the Schedule B Contractor in each Fiscal Year with respect to all Indebtedness then outstanding and all related Periodic Interest Costs, calculated as provided in this subsection 6.5.

6.9 ~~6.5.2~~ As used in this subsection 6.5, “Advance” or “Advances” shall include an Advance or Advances made or anticipated to be made pursuant to the Reclamation Contract or the Interim Contract or both. As used in this subsection 6.5, “Indebtedness” shall include: (i) the amount of all borrowed money and all guarantees,

6.10 assumptions, and other contingent liabilities incurred to finance Advances and the amount of all borrowed money, guarantees, assumptions, and liabilities incurred to finance Funded Interest Costs; and (ii) the amount of funds furnished to Reclamation by the Schedule B Contractor as Advances, to the extent such funds are specified by the Schedule B Contractor as being derived from sources other than described in clause (i) above; whether incurred or provided by the Schedule B contractor or by any entity acting on behalf of, or as assignee of, the Schedule B Contractor.

6.11 ~~6.5.3~~ As used in this subsection 6.5, “Interest Costs” shall include all amounts used or anticipated to be used for interest payments, issuance expenses, discounts, reserves, credit support and similar fees, remarketing fees, and other financing expenses (to the extent such other financing expenses are incurred to service or reduce interest payments with respect to Indebtedness); whether incurred by the Schedule B Contractor or by any entity acting on behalf of, or as assignee of, the Schedule B Contractor. As used in this subsection 6.5: “Funded Interest Costs” shall include that

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portion of Interest Costs paid or anticipated to be paid from the proceeds of Indebtedness; and all other Interest Costs shall constitute “Periodic Interest Costs.”

6.12 ~~6.5.4~~ With respect to Indebtedness described in paragraph 6.5.2(ii): (i) the amount of such Indebtedness shall be deemed to be payable in equal installments on the last day of each Billing Period from the date of the Advance or June 1, 1987, whichever is later, to September 30, 2017; and (ii) the Periodic Interest Costs with respect thereto shall be deemed to be payable monthly on the last day of each Billing Period, assuming an annual interest rate equal to the average annual rate for Periodic Interest Costs of all Schedule B Contractors for all Indebtedness described in paragraph 6.5.2(i) based upon the then current Credit Schedules provided by such Schedule B Contractors.

6.13 ~~6.5.5~~ Not less than ninety (90) days (sixty (60) days if the Schedule B Contractor shall not have outstanding Indebtedness described in paragraph 6.5.2(i)) prior to the beginning of each Fiscal Year, the Schedule B Contractor shall provide to Western and Reclamation a schedule (“Credit Schedule”) setting forth the Schedule B Contractor’s estimate of the amounts described in subparagraphs 6.5.8.1 and 6.5.8.2 with respect to each Billing Period for the remaining term of this Contract and a copy of each Credit Schedule received by Western from each Schedule B Contractor shall be provided promptly by Western to all Contractors for their information; Provided, That if the sum of the amounts described in subparagraphs 6.5.8.1 and 6.5.8.2 with respect to any Billing Period as so estimated by the Schedule B Contractor (excluding any portion thereof scheduled to be paid from debt service or other reserves with respect to Indebtedness), together with any addition thereto pursuant to subparagraph 6.5.5.2 (together, the “Scheduled Accrual”), would exceed the Maximum Accrual with respect to such Billing Period, notwithstanding subparagraphs 6.5.8.1 and 6.5.8.2:

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6.14 ~~————— 6.5.5.1 ———~~ The Schedule B Contractor shall provide with such Credit Schedule a separate schedule which shall adjust the Credit Schedule with respect to such Billing Period to set forth instead the Maximum Accrual with respect to such Billing Period;

6.15 ~~————— 6.5.5.2 ———~~ The amount by which the Scheduled Accrual with respect to any Billing Period exceeds the Maximum Accrual with respect to such Billing Period shall be added to the Scheduled Accrual for the next succeeding Billing Period; and

6.16 ~~————— 6.5.5.3 ———~~ The amount to be included in the calculation of the Credit Amount for any Billing Period pursuant to subparagraphs 6.5.8.1 and 6.5.8.2 shall reflect any adjustments required by this paragraph 6.5.5.

6.17 ~~————— 6.5.5.4 ———~~ As used in this subsection 6.5, “Maximum Accrual” shall mean at any date of preparation of a Credit Schedule and with respect to any Billing Period, the maximum amount which would accrue for payment by or on behalf of the Schedule B Contractor with respect to Indebtedness and Periodic Interest Costs in such Billing Period if all of the Indebtedness then outstanding were structured so that:

6.18 ~~————— 6.5.5.4(a) ———~~ Principal were payable annually over a period (determined by the Schedule B Contractor) equal to not less than (i) in the case of Indebtedness incurred on or prior to September 30, 2012, twenty four (24) years or ninety percent (90%) of the period from the issuance of such Indebtedness until September 30, 2017, whichever is shorter; or (ii) in the case of Indebtedness incurred after September 30, 2012, eight percent (80%) of the period from the issuance of such Indebtedness until September 30, 2017;

6.19 ~~————— 6.5.5.4(b) ———~~ Commencing with the second Fiscal Year in which principal would be so payable, the amount of principal and interest scheduled to

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~~accrue for payment in any Fiscal Year would not exceed one hundred twenty percent (120%) of the average amount of principal and interest scheduled to accrue for payment in all Fiscal~~

~~6.20 Years commencing on or after October 1, 1987, in which principal is to be paid. The calculation of interest accruals required by this paragraph shall be made based on the coupon interest rates then established for the Indebtedness, with the Schedule B Contractor's estimate of coupon interest rates to be used to the extent rates are to be established in the future.~~

~~6.21 6.5.6 Proceeds of Indebtedness and investment income earned on the proceeds of Indebtedness prior to completion of the Uprating Program, remaining at the completion or termination of construction of the Uprating Program (to the extent not then required for reserves required by the terms of the instruments establishing such Indebtedness) shall be used by or on behalf of the Schedule B Contractor to purchase or redeem Indebtedness at the earliest date after such completion or termination at which (i) such Indebtedness is required by its terms to be purchased or redeemed, or (ii) such Indebtedness may be purchased or redeemed and, in the judgment of the Schedule B Contractor, such redemption or purchase (when compared to leaving the Indebtedness outstanding to maturity) would produce an overall net reduction in credits to the Schedule B Contractor pursuant to this Contract. Promptly after any such purchase or redemption, the Schedule B Contractor shall provide to Western a revision of the Schedule B Contractor's then current Credit Schedule reflecting the impact of such purchase or redemption. Investment income earned on the proceeds of Indebtedness after the completion of the Uprating Program (to the extent not used or to be used for Advances or for Interest Costs, and net of any required rebate thereof) shall be applied, as earned, as a reduction of Periodic Interest Costs. Each Schedule B Contractor shall use its best efforts~~

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~~6.22 to cause the reserves required by the terms of the instruments establishing its Indebtedness and any Advance Credits Account required by paragraph 6.5.11 to be invested from time to time at the highest yield consistent with law, prudent investment policy, and the instruments establishing the requirements for such reserves.~~

~~6.23 ————— 6.5.7 Each Schedule B Contractor shall provide to Western and Reclamation, as soon as practicable after the end of each Fiscal Year, a statement of the Credit Difference with respect to such Fiscal Year. Western shall add to or reduce the Schedule B Contractor's succeeding Credit Amounts, as appropriate, as soon as possible to reflect any such Credit Difference.~~

~~6.24 ————— 6.5.8 The "Credit Amount" with respect to any Billing Period shall consist of the sum of the following:~~

~~6.25 ————— 6.5.8.1 ————— The amount accruing for payment by or on behalf of a Schedule B Contractor with respect to Indebtedness and Periodic Interest Costs in such Billing Period (excluding any portion thereof scheduled to be paid from debt service or other reserves with respect to Indebtedness), as shown by the most recent Credit Schedule furnished to Western by said Schedule B Contractor; and~~

~~6.26 ————— 6.5.8.2 ————— With respect to the month of July 1987, the Credit Amount shall also include the amount accruing for payment by or on behalf of the Schedule B Contractor with respect to Indebtedness and Periodic Interest Costs prior to July 1, 1987, as shown by the most recent Credit Schedule furnished to Western by the Schedule B Contractor; and~~

~~6.27 ————— 6.5.8.3 ————— The amount of any "Credit Carryforward" to be included in the Credit Amount for such Billing Period pursuant to paragraph 6.5.9 hereof; and~~

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6.28 ~~————— 6.5.8.4 ———~~ The amount (positive or negative) of any Credit Difference not yet applied by Western pursuant to paragraph 6.5.7 hereof.

6.29 ~~————— 6.5.9 ———~~ Western shall apply, as a credit against the power bill of the Schedule B contractor under this Contract rendered in any Billing Period, the Credit Amount for such Billing Period (based on paragraph 6.5.8 hereof); Provided, That the Credit Amount so applied shall not reduce the power bill rendered in any Billing Period below \$0.00. To the extent that, after applying the Credit Amount for any Billing Period to the power bill of the Schedule B Contractor rendered in such Billing Period, there shall remain a portion of the Credit Amount which has not been so applied, including any amount not applied as credits pursuant to the proviso in subsection 6.5, the portion of the Credit Amount so remaining shall constitute a “Credit Carryforward” and shall be included in the Credit Amount for the next succeeding Billing Period, subject to paragraphs 6.5.12, 6.5.13, and 6.5.14 hereof. The amount to be credited on the power bill rendered in any Billing Period shall be deemed to be due from Western to the Schedule B Contractor on the date of payment by the Contractor of such power bill (or, if the amount of such power bill shall be \$0.00, on the date such power bill is rendered by Western). The parties understand that the credits to be given under this subsection 6.5 are to be given to the Schedule B Contractor without duplication, i.e., the Schedule B Contractor shall not be entitled to a credit hereunder for any portion of the funds advanced by it or by it or the costs incurred by it to the extent it previously has received a credit hereunder for such portion of the funds advanced or costs incurred by it as added by section 2(g)(4) of the Hoover Power Allocation Act, Western shall calculate the Repayable Advances paid for by Schedule A and B Contractors prior to October 1, 2017, and shall recover the pro rata share of such Repayable Advances from new allottees and credit the Schedule A and B Contractors for

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such amounts as specified in section 6.4 of the Boulder Canyon Project Implementation Agreement.

6.30 Post-2067 Recovery and Reimbursement of Repayable Advances: During the term of this Contract, the Contractor may pay Replacement Capital Advances, as defined in section 4.40 of the Boulder Canyon Project Implementation Agreement. Western shall calculate the portion of Replacement Capital Advances that are Repayable Advances, as defined and calculated pursuant to section 6.3 of the Boulder Canyon Project Implementation Agreement, and shall recover the pro-rata share of such Repayable Advances from each post-2067 Contractor and reimburse Contractor in the same manner provided in section 6.4 of the Boulder Canyon Project Implementation Agreement for post-2017 Contractors.

6.31 ~~6.5.10~~ If Western shall derive revenues from the sale of Hoover Power from the Boulder Canyon Project to any entity other than the Contractors, or if Western shall itself utilize Hoover Power from the Boulder Canyon Project, in any Fiscal Year ~~in excess of its revenue requirements therefor,~~ Western ~~may~~ shall set aside and apply such excess revenues or portions thereof as credits on the power bills of the ~~Schedule B Contractor~~ Contractors in the next succeeding Fiscal Year, ~~such credits (“Advance Credits”) to be in addition to those to be provided based upon the Credit Schedule of the Schedule B Contractor for such Fiscal Year; Provided~~ provided, however, ~~That (i) that~~ the power bill rendered to the ~~Schedule B Contractor~~ Contractors in any Billing Period shall not be reduced to below \$0.00 ~~and (ii) no Advance Credits shall be provided to the Schedule B Contractor when the Advance Credits previously provided (net of any prior reduction as provided in paragraph 6.5.12) shall exceed the total amounts of credits shown by~~

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~~the Credit Schedule of the Schedule B Contractor for the then current Fiscal Year and the four (4) next succeeding Fiscal Years-0.00.~~

6.32 ~~—————6.5.11 The Schedule B Contractor shall collect charges from its purchasers of Power so that the Advance Credits, when received from Western, will not reduce the power bills to such purchasers. The Schedule B Contractor will establish and maintain a reserve account (the “Advance Credits Account”), into which it will deposit all moneys collected from such purchasers attributable to Advance Credits, and the investment income on such Advance Credits Account shall be used in the same manner as other investment income is to be used under paragraph 6.5.6.~~

6.33 ~~—————6.5.12 If the Credit Amount applied in any Billing Period shall be less than the amount to be provided based upon the Credit Schedule of the Schedule B Contractor for the then current Fiscal Year (thus creating a Credit Carryforward), the amount then held in the Advance Credits Account shall be applied by the Schedule B Contractor to its Indebtedness and Periodic Interest Costs in an amount equal to the amount of such deficiency, and the Credit Carryforward and outstanding Advance Credits Account shall be reduced by an equal amount.~~

6.34 ~~—————6.5.13 If, at the commencement of any Fiscal Year beginning prior to October 1, 2015, there shall remain a Credit Carryforward which shall equal or exceed twenty five percent (25%) of the sum of the monthly Credit Amounts set forth in the last Credit Schedule for the immediately preceding Fiscal Year, the Schedule B Contractor may require that the amount of such Credit Carryforward be applied as a prepayment for one or more purchases of additional energy from Western, which energy shall be obtained by Western from any lawfully available source and be scheduled by Western for delivery to the Schedule B Contractor at the Boulder Canyon Project point(s) of delivery or other~~

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~~agreed upon point(s) of delivery as promptly as practicable, to the extent that such deliveries can be effected without adversely affecting any other Contractor's rights of delivery under contracts made pursuant to the Hoover Power Plant Act, at a mutually agreeable time or times, and at a price per kilowatthour equal to Western's then existing average annual purchase price for energy or such other price as shall be mutually agreed upon by Western and the Schedule B Contractor. The foregoing notwithstanding, the Schedule B Contractor may (to the extent permitted by law and to the extent determined by the Schedule B Contractor to be permitted by the terms of outstanding Indebtedness binding upon it) accept cash payments from Western, in lieu of any such purchase, and its Credit Carryforward shall be reduced by the amount of any cash payment so received.~~

6.35 ~~————— 6.5.14 If, on or after October 1, 2015, there shall remain or arise any Credit Carryforward or Credit Difference, as soon as practicable after such Credit Carryforward or Credit Difference becomes known to Western, the amount thereof shall be treated as follows:~~

6.36 ~~————— 6.5.14.1 ——— Any positive amount shall constitute a prepayment for one or more purchases of additional energy from Western, which energy shall be scheduled by Western for delivery to the Schedule B Contractor at the Boulder Canyon Project point(s) of delivery or other agreed upon point(s) of delivery as promptly as practicable, to the extent that such deliveries can be effected without adversely affecting any other Contractor's rights of delivery under contracts made pursuant to the Hoover Power Plant Act, at a mutually agreeable time or times, and at a price per kilowatthour equal to Western's then existing average annual purchase price for energy or such other price as shall be mutually agreed upon by Western and the Schedule B Contractor. The foregoing notwithstanding, the Schedule B Contractor may (to the extent permitted by law and to the extent determined by the Schedule B Contractor to be permitted by the terms of~~

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~~outstanding Indebtedness binding upon it) accept cash payments from Western, in lieu of any such purchase, and any positive amount shall be reduced by the amount of any cash payment so received.~~

~~6.37 \_\_\_\_\_ 6.5.14.2 \_\_\_\_\_ Any negative amount will be billed by Western promptly to the Schedule B Contractor, which shall pay the amount within thirty (30) days after receipt of the billing.~~

6.38 Construction of Uprating Projects: Western and Reclamation shall not authorize the construction of any Uprating Program that would result in any loss or damage to the Boulder Canyon Project, Hoover Dam, the Hoover Powerplant, or the non-participating Contractors' rights to energy, capacity, Ramping, and Ancillary Services. Western and Reclamation shall be jointly and severally liable to non-participating Contractors for any such loss or damage resulting from an authorized Uprating Program that results in costs of repair or replacement of any facilities or works of the Boulder Canyon Project, Hoover Dam, the Hoover Powerplant, or results in a loss or reduction in, or increased cost for, energy, capacity, Ramping, or Ancillary Services available to the non-participating Contractors.

6.39 Financing of Uprating Projects: The cost of constructing, operating, and maintaining facilities constructed in any Uprating Program shall be borne solely by the Participating Contractors pursuant to separate financing agreements with Reclamation and Western. Such costs shall not be recoverable from non-Participating Contractors, except that funds advanced to construct an Uprating Program shall be included in Repayable Advances collectable from post-2067 Contractors pursuant to section 6.6, above, to the extent that the amortization period extends beyond September 30, 2067. Western shall separately calculate the

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annual costs of operating and maintaining any facilities constructed in an Upgrading Program and collect such costs on a pro-rata basis from the Participating Contractors in that Upgrading Program.

7. ~~7.~~ DETERMINATION OF REVENUE REQUIREMENTS, REPAYMENT

PERIODS, AND RATES:

Western shall fix rates and collect all electric service revenues due the Boulder Canyon Project in accordance with applicable statutes and regulations as set forth in ~~section 904.5 of~~ the 1986 Reclamation Regulations (43 CFR Part 431), the 1986 Western Regulations (10 CFR Part 904), and in Department of Energy Order RA 6120.2, as they may be amended or supplemented, and subject to the approval of the Coordinating Committee as set forth in sections 5.1.1, 5.1.2, and 5.1.3, above. Western shall deposit such revenues into the Colorado River Dam Fund. The rates Western applies to the Contractors shall be fair and reasonable, and shall be the lowest possible rates, consistent with sound business principles. No expenditure shall be recovered from the Contractors, unless it is a direct cost resulting from the operation, maintenance and replacement of Hoover Powerplant for the generation of power set forth in the Conformed Criteria referred to in section 4.15 herein and is approved by the Contractors pursuant to section 5.1.3.

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8. ~~8.~~ RESALE OF ELECTRIC ENERGY:

8.1 ~~8.1~~ Distribution Principles: The purpose of making low-cost, Federally-generated power available is to encourage the most widespread use thereof, and therefore: ~~8.1.1~~ The ~~the~~ benefits of Federally-generated power shall be made available at fair and reasonable terms to ~~all of the~~ Contractor's customers at the lowest possible rates consistent with sound business principles; ~~and~~

8.2 ~~8.1.2~~ The Contractor shall furnish to Western a copy of each schedule of rates in effect on the date of execution of this Contract and a copy of each schedule of rates thereafter adopted; and

8.3 ~~8.1.3~~ The Contractor shall provide Western an annual statement indicating that the charges to its customers are consistent with the principles set forth in paragraph 8.1.1 hereof; and ~~8.1.4~~ The Contractor shall provide Western an annual report or, in lieu of the annual report, an annual statement indicating the financial operations of the Contractor's electric system.

8.4 ~~8.2~~ Sales to Resale Customers: ~~The Contractor shall require its resale customers to implement~~ Subject to the distribution principles of paragraph 8.1.1 hereof, and whenever the Contractor executes, modifies, or amends a contract with a resale customer, it shall include in such contract requirements similar to those set forth in paragraph 8.1.1. ~~No Contractor shall~~ rights of Contractor under paragraph 5.3.7, Contractor shall not sell for profit any of the Hoover Power ~~contracted for hereunder to any Contractor or~~ to any resale customer of ~~the~~ Contractor for resale by ~~that~~ such resale customer.

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~~8.3~~ Place of Use: All Power purchased by the Contractor under this Contract shall be used only in the State in which that Contractor is located, except as provided in paragraph 5.4.8.

9. ~~9.~~ CONSERVATION AND RENEWABLE ENERGY PROGRAM:

9.1 ~~9.1~~ TheAs required by Title II of the Hoover Power Plant Act, as amended by section 114 of the Energy Policy Act of 1992 (Pub. L. 102-486, 106 Stat. 2799), the Contractor and each of its resale customers shall develop and implement ~~a Conservation and Renewable Energy Program~~an Integrated Resource Plan (“IRP”) or an approved alternative in accordance with the terms ~~of the “Final Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs,” published in the FEDERAL REGISTER on August 21, 1985 (50 Fed. Reg. 33892, et seq.)~~10 CFR Part 905 Energy Planning and Management Program, and any subsequent amendments thereto, ~~hereinafter called the “Guidelines and Acceptance Criteria.”~~

9.2 ~~9.2~~ The following ~~paragraphs~~sections 9.2.1 through 9.2.5 set out the provisions to effect ~~a Conservation and Renewable Energy Program~~an IRP.

9.2.1 ~~9.2.1~~ If requested and if within its capabilities, Western will provide guidance and assistance in the development of ~~a Conservation and Renewable Energy Program~~an IRP.

9.2.2 ~~9.2.2~~ The Contractor and each of its resale customers will develop ~~a Conservation and Renewable Energy Program~~an IRP suitable for its respective geographic area and type of utility operation and will submit said program to Western within

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twelve (12) months after the date of execution of this Contract. Resale customer programs shall be submitted to Western through the Contractor.

9.2.3 ~~9.2.3 Conservation and Renewable Energy Programs~~ Contractor's IRP shall consist of items designated ~~number of activities, as stipulated in the Guidelines and Acceptance Criteria. Credit will be given for past accomplishments if they are ongoing and current under the Guidelines and Acceptance Criteria.~~ in 10 CFR 905.11. Approval and periodic review and verification of any program shall take place in accordance with ~~the Guidelines and Acceptance Criteria.~~ 10 CFR Part 905.

9.2.4 ~~9.2.4 The initial Conservation and Renewable Energy Program submitted by the Contractor to Western for itself or one of its resale customers will either be approved or disapproved within three (3) months of receipt. If an initial submittal is disapproved, a notification of deficiencies in the program will be given in writing by Western.~~

9.2.5 Deficiencies must be remedied within ~~twelve (12) months of the date of notification. If an existing Conservation and Renewable Energy Program is revoked at any time after approval, a notification outlining the deficiencies in such program will be given in writing to the Contractor and, if applicable, to the resale customer by Western. Deficiencies must be remedied within twelve (12) months of the date of notification.~~

9.2.6 ~~9.2.5 If deficiencies in the Contractor's program are not corrected within twelve (12) months of Westerner's notification of deficiencies in the Contractor's program, the Contractor's Power entitlement, as set forth in this Contract, may be reduced by ten percent (10%) at the discretion of the Administrator.~~

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~~9.2.7~~ ~~9.2.6~~ If deficiencies in the program of any of the Contractor's resale customers are not corrected within twelve (12) months of Western's notification of deficiencies in the program, the Contractor shall, upon direction from the Administrator, reduce the Contractor's resale customer's power entitlement by ten percent (10%). The Contractor shall reallocate, in accordance with the Contractor's applicable regulations, the Power entitlement so reduced among its other resale customers whose programs are approved; Provided, That in the event the Contractor fails to reduce such resale customer's Power entitlement by ten percent (10%), pursuant to written notice by Western, Western may reduce the Contractor's Power entitlement by a like amount.

~~10.~~ GENERAL POWER CONTRACT PROVISIONS MADE PART OF CONTRACT:

the time agreed upon by Western and Contractor, however such time not to exceed twelve (12) months of notification of such deficiency.

9.2.8 If deficiencies in the Contractor's program are not corrected within the above-referenced time period, then Contractor is subject to penalties pursuant to 10 CFR 905.20.

10. GENERAL POWER CONTRACT PROVISIONS MADE PART OF CONTRACT:: The

General Power Contract Provisions effective ~~July 15, 1985,~~                     , attached hereto as Attachment No. 2, are hereby made a part of this Contract with the same force and effect as if expressly set forth herein; ~~Provided, That~~provided, that (i) Articles 4, ~~10, 15~~11, 16 through ~~26, 18,~~ 20 through 30, and ~~29.135.1~~ shall not apply to this Contract; (ii) Article ~~28 shall not be applicable to the minimum payments required in subsection 6.2;~~ (iii) ~~Article 35~~41.1 shall not apply to this Contract so long as the Contractor is entitled to credits pursuant to ~~subsection 6.5 hereof~~any provision of this Contract, but any claim arising by reason of the inapplicability of Article ~~35~~41.1

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shall be limited to the recovery of the amount of credits ~~described in subsection 6.5~~ that have not been returned to the Contractor as prescribed ~~in that subsection~~.

11. DISPUTES:

11.1 ~~11.1~~ Western Actions Reviewable: All decisions, directions, and determinations of Western under this Contract, including those decisions, directions, or determinations which call for the exercise of discretion, are subject to review as provided in this section. However, the Contractor shall comply with any such decision, direction, or determination unless and until it is reversed or modified by the Administrator, by a court, or by arbitration, pursuant to ~~subsection~~section 11.2. Unless the Contractor exercises its rights under ~~subsection~~section 11.2, such decisions, directions, and determinations are binding on the Contractor.

11.2 ~~11.2~~ Disputes Falling Under the Responsibility of the Administrator of Western: Any disputes or disagreements as to interpretation or performance of the provisions of Title I of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act, applicable regulations, or this Contract, that fall under the responsibility of the Administrator, shall be determined in accordance with section 904.13 of the 1986 Western Regulations.

11.3 ~~11.3~~ Reclamation Actions Reviewable: All decisions, directions, and determinations of Reclamation under this Contract, including those decisions, directions, or determinations which call for the exercise of discretion, are subject to review as provided in this section. However, the Contractor shall comply with any such decision, direction, or determination unless and until it is reversed or modified by the Secretary of the Interior, by a court, or by arbitration, pursuant to ~~subsection~~section 11.4. Unless the Contractor exercises its rights

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under ~~subsection~~section 11.4, such decisions, directions, and determinations are binding on the Contractor.

~~11.4 Disputes Falling Under the Responsibility of the Secretary of the Interior:~~

~~Any disputes or disagreements as to interpretation or performance of the provisions of~~

11.4 Disputes Falling Under the Responsibility of the Secretary of the Interior: Any disputes or disagreements as to interpretation or performance of the provisions of Title I of the Hoover Power Plant Act, as amended by the Hoover Power Allocation Act, applicable regulations, or this Contract that fall under the responsibility of the Secretary of the Interior shall be determined in accordance with section 431.8 of the 1986 Reclamation Regulations.

[ **note to draft: Parties to discuss possible provisions to address impact of a denial of state regulatory approval of this Contract**]

12. 12. EXHIBITS MADE PART OF CONTRACT: ~~Inasmuch as the delivery conditions, Contract Capacity, and accounting for use of Unloaded Synchronized Generation~~ Inasmuch as certain matters may change during the term hereof, they will be set forth in ~~respective Exhibits A, B, and C as agreed upon~~exhibits, which may be amended from time to time ~~between~~by the Authorized Representatives. The initial ~~Exhibits A, B, and C~~exhibits are attached hereto and made a part hereof, and each shall be in force and effect in accordance with its respective provisions until superseded by a subsequent exhibit executed by the Authorized Representatives. A revised exhibit shall be executed when it is signed and dated by the Authorized Representative of the Contractor, Western and Reclamation. Each superseding exhibit shall be attached to and become part of this Contract.

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13. ~~13.~~ AUTHORIZED REPRESENTATIVES: Each Party, by written notice to the other, shall designate the representative(s) who is (are) authorized to act on its behalf with respect to those matters contained herein which are the functions and responsibilities of its Authorized Representative(s). In case a Party designates more than one representative, the notice shall state the particular matter(s) upon which each designated representative is authorized to act. Either Party may change the designation of its Authorized Representative (s) upon oral notice given to the other and confirmed promptly by written notice.

14. ~~14.~~ EFFECT OF SECTION HEADINGS: Section headings appearing in this Contract are inserted for convenience only and are not interpretations of text.

15. FUTURE REGULATIONS, MODIFICATIONS, WAIVERS, DEFAULTS:

15.1 ~~15.1~~ Future Regulations: From time to time additional or amendatory regulations may be promulgated as deemed necessary for the administration of the Boulder Canyon Project in accordance with applicable law; ~~Provided, That~~ provided, that no right under this Contract shall be impaired, or obligation thereunder be extended thereby.

15.2 ~~15.2~~ Modifications, Extensions, Waivers: [Sections \_\_\_\_\_ of this] [This] Contract may only amended or modified or amended in a writing executed by Western, Reclamation, and Contractor. In the event that Western and/or Reclamation agrees to any modification, extension, or waiver of any provision or requirement of any regulation or contract granted for the benefit of one or more Contractors, it shall promptly deliver notice to the other Contractors of such modification, extension or waiver. Any modification, extension, or waiver of any provision or requirement of any regulation or contract granted for the benefit of any one or

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more Contractors in connection with electric service from the Boulder Canyon Project shall not be denied to any other Contractor.

15.3 ~~15.3~~—Default or Failure of Performance by Contractors: A default or failure of performance by any one or more Contractors shall not have the effect of diminishing another Contractor's rights under its Contract or enlarging its obligations or costs if it is not itself in default.

16. ~~16.~~—PRIORITY OF CLAIMS OF THE UNITED STATES: Claims of the United States arising out of this Contract shall have priority over all others, secured or unsecured.

17. ~~17.~~—ACCESS TO BOOKS AND RECORDS: The Authorized Representative(s) of each Party shall have access for any purpose at all reasonable times to applicable portions of all books and records of the other Contractors, Reclamation, and Western relating to transactions associated with this Contract with the right at any time during office hours to make copies of the same.

18. ~~18.~~—REFERENCE TO SECTION, SUBSECTION, PARAGRAPH, OR SUBPARAGRAPH: A reference to a section, subsection, paragraph, or subparagraph shall include all the subparts of such referenced section, subsection, paragraph, or subparagraph.

19. ~~19.~~—~~EFFECT OF CONCURRENCE OF RECLAMATION: Section 17, subsections 11.3 and 11.4, paragraphs 5.1.1 and 5.2.6, and subparagraphs 5.1.1.1, 5.1.1.2, 5.2.4.1, 6.2.3.1, 6.2.3.2, 6.2.3.3, and 6.2.3.4 of this Contract provide for activities that are beyond the scope of Western's statutory authority but are within the statutory authority of Reclamation. The concurrence in this Contract by Reclamation signifies its contractual commitment to discharge the obligations of the United States, acting through Reclamation~~

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~~as provided in section 17, subsections 11.3 and 11.4, paragraphs 5.1.1 and 5.2.6, and subparagraphs 5.1.1.1, 5.1.1.2, 5.2.4.1, 6.2.3.1, 6.2.3.2, 6.2.3.3, and 6.2.3.4. The execution of this Contract by Western signifies its contractual commitment to discharge the obligations of the United States, acting through Western, as provided for in all sections, subsections, paragraphs, and subparagraphs of this Contract except section 17, subsections 11.3 and 11.4, paragraph 5.1.1, and subparagraphs 5.1.1.1, 5.1.1.2, 5.2.4.1, 6.2.3.1, 6.2.3.2, 6.2.3.3, and 6.2.3.4.~~

~~.....~~

~~.....~~

~~.....~~

20. AMENDMENT OF THE CONTRACT: This Contract may be amended with the written agreement of Western, Reclamation, and Contractor.

IN WITNESS WHEREOF, this Contract No. \_\_\_\_\_ has been executed by duly ~~authorized representatives~~ Authorized Representatives of the Contractor, Western, and Reclamation.

THE UNITED STATES OF AMERICA  
WESTERN AREA POWER ADMINISTRATION

Date: \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CONCURRENCE OF

**DRAFT COMPARED AGAINST CURRENT FEDERAL HOOVER ESC**  
**NOVEMBER 12, 2014**

THE UNITED STATES OF AMERICA  
BUREAU OF RECLAMATION

Date: \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

STATE OF NEVADA, acting by and through  
its COLORADO RIVER COMMISSION ~~OF~~

~~NEVADA:~~

Date: \_\_\_\_\_

By: \_\_\_\_\_

Attest \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Attorney General of Nevada

Ratified this ~~22nd~~ This day of ~~January~~  
1987201

\_\_\_\_\_  
Governor of the State of Nevada

**DRAFT COMPARED AGAINST CURRENT FEDERAL HOOVER ESC**  
**NOVEMBER 12, 2014**

CERTIFICATE

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_  
Executive Director of the Colorado River Commission of Nevada acting in the name of the  
State of Nevada, the state named as Contractor herein; that \_\_\_\_\_ who signed the  
above Contract No. \_\_\_\_\_ on behalf of said Contractor was then its Chairman; and  
that said Contract was duly signed for and in behalf of said Contractor by authority of its governing  
body and is within the scope of the powers conferred by the laws of the State of Nevada.

\_\_\_\_\_  
\_\_\_\_\_  
(Title) Executive Director

Address: \_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_:

Exhibit A  
Contract No. \_\_\_\_\_

CONTRACTOR XYZ

DELIVERY CONDITIONS

- ~~1. This EXHIBIT A, under and as part of Contract No. \_\_\_\_\_  
effective January 1, 1987, hereinafter called the "Contract," shall be effective  
as of January 1, 1987, and shall remain in effect until superseded by another~~

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~~Exhibit A as approved by the Authorized Representatives of the Parties; Provided, That this Exhibit A or any superseding Exhibit A shall be terminated by the expiration of the Contract.~~

2. ~~POINT(S) OF DELIVERY: Western shall deliver Power to the Contractor at the point(s) at which the facilities of the Contractor or its Scheduling Entity are attached to the facilities of Western at the point(s) of delivery and nominal delivery voltages set forth below, or at other mutually agreed upon point(s) of delivery.~~

<del>_____</del> Point(s) of Delivery <del>_____</del> and Measurement <del>_____</del>	<del>_____</del> Voltage <del>_____</del> <del>_____</del> (kV)
<del>_____</del> Hoover Arizona/Nevada Tie *	<del>_____</del> 230 kV
<del>_____</del> Hoover N8 Generation *	<del>_____</del> 230 kV
<del>_____</del> Mead Bus **	<del>_____</del> 230 kV
<del>_____</del> Hoover Bus *	<del>_____</del> 69 kV
<del>_____</del> Mead Bus **	<del>_____</del> 69 kV

\* ~~\_\_\_\_\_~~ Initial point(s) of delivery

\*\* ~~\_\_\_\_\_~~ Future point(s) of delivery Exhibit B  
Contract No. ~~\_\_\_\_\_~~

~~CONTRACTOR XYZ~~

~~CONTRACT CAPACITY AND ENERGY ENTITLEMENTS~~

1. ~~This EXHIBIT B, under and as part of Contract No. \_\_\_\_\_ effective January 1, 1987, hereinafter called the "Contract," shall be effective as of January 1, 1987, and shall remain in effect until superseded by another Exhibit B as~~

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~~approved by the Authorized Representatives of the Parties; Provided, That this Exhibit B or any superseding Exhibit B shall be terminated by the expiration of the Contract.~~

~~2. CONTRACT CAPACITY: The Contractor's Schedule A Contract Capacity and Schedule B Contract Capacity shall be set forth in the Master Schedule, to become attached hereto.~~

~~3. DETERMINATION OF ENERGY ENTITLEMENT: The Contractor's Transition Period and Fiscal Year energy entitlement pursuant to the Contract shall be determined by the following formula:~~

$$EE = (P/100 \times B) + C + D - L$$

~~Where,~~

~~\_\_\_\_\_ EE = Contractor's energy entitlement for the respective period.~~

~~\_\_\_\_\_ P = Contractor's percentage of total Schedule A Firm Energy and Schedule B Firm Energy.~~

~~\_\_\_\_\_ B = Total available Firm Energy for the respective period, exclusive of requested firming purchases.~~

~~\_\_\_\_\_ C = Excess Energy for the respective period available to the Contractor pursuant to Schedule C.~~

Exhibit B  
Contract No. \_\_\_\_\_  
CONTRACTOR XYZ

~~\_\_\_\_\_ D = Contractor's requested firming purchase pursuant to~~

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~~paragraph 5.4.7.~~

~~L = Reduction in energy entitlement pursuant to  
paragraph 5.6.4.~~

~~4. The following terms, when used in the Contract or Exhibits, shall have the meanings specified:~~

~~4.1 NERC Holidays: ~~New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.~~~~

~~4.2 Normal Business Day: ~~Monday through Friday inclusive, except for NERC Holidays as defined in subsection 4.1 hereof.~~~~

~~4.3 Off Peak Hours: ~~All day on Sundays and NERC Holidays, and the following hours on Mondays through Saturdays:~~~~

~~4.3.1 ~~10 p.m. to 6 a.m., Pacific time, during the period beginning on the last Sunday of April until the last Sunday of October of any year.~~~~

~~4.3.2 ~~11 p.m. to 7 a.m., Pacific time, during the period beginning on the last Sunday of October until the last Sunday of April of the succeeding year.~~~~

~~4.4 On Peak Hours: ~~All other times.~~~~

Exhibit C

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**NOVEMBER 12, 2014**

Contract No. \_\_\_\_\_  
CONTRACTOR XYZ

ACCOUNTING FOR USE OF  
UNLOADED SYNCHRONIZED GENERATION

1. ~~This EXHIBIT C, under and as part of Contract No. \_\_\_\_\_ effective January 1, 1987, hereinafter called the "Contract," shall be effective as of January 1, 1987, and shall remain in effect until superseded by another Exhibit C as approved by the Authorized Representatives of the Parties; Provided, That this Exhibit C or any superseding Exhibit C shall be terminated by the expiration of the Contract.~~
2. ~~Energy used to supply Unloaded Synchronized Generation to the Contractor for regulation, ramping, and spinning reserves pursuant to subsection 5.6 of the Contract shall be returned in accordance with the following formula:~~

$$\frac{L}{(RT)} = (M_L + S_L) \times \frac{RC}{RT}$$

~~Where L = megawatt hour reduction in the energy entitlement to the Contractor in the following Billing Period or as soon as practicable~~

~~M<sub>L</sub> = megawatt hours used for operation of generating units in a motoring mode for all Contractors that schedule Unloaded Synchronized Generation during the Billing Period~~

~~S<sub>L</sub> = computed energy, expressed in megawatt hours, lost due to reduced plant efficiency caused by operation of generating units in a partially loaded spinning mode for all Contractors that schedule Unloaded Synchronized Generation during the Billing Period~~

~~R<sub>C</sub> = cumulative sum, expressed in megawatt hours, of the Contractor's Unloaded Synchronized Generation during the~~

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~~Billing Period~~

~~—————  $R_T$  ——— = ——— cumulative sum, expressed in megawatt hours, of all  
Contractors' Unloaded Synchronized Generation during the  
Billing Period~~

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Exhibit C

Contract No. \_\_\_\_\_

CONTRACTOR XYZ

- ~~2.1 — The value of  $M_L$  will be determined by metering total energy used for motoring units for all Contractors during the Billing period.~~
- ~~2.2 — The value of  $S_L$  will be determined by multiplying an appropriate predetermined factor set forth in section 3 hereto times the megawatt hours of all Contractors' Unloaded Synchronized Generation.~~
- ~~3. — In order to develop a history of the amount of Unloaded Synchronized Generation associated with energy lost by operating generating units in a partially loaded spinning mode ( $S_L$ ), the factor  $S_L$  shall initially be deemed to be zero percent (0%) of total plant capacity through September 30, 1988. On October 1, 1988, and every year thereafter, this factor will be revised annually at the determination of Western based upon prior year operations. Supporting data justifying any such revision will be provided upon written request to the Contractor.~~
- ~~4. — Scheduling of such energy shall be pursuant to the metering and scheduling instructions agreed upon pursuant to paragraph 5.7.3 of the Contract.~~

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Attachment No. 1  
Contract No. \_\_\_\_\_  
—Rate Schedule  
BCP-F1

UNITED STATES  
DEPARTMENT OF ENERGY  
WESTERN AREA POWER ADMINISTRATION  
BOULDER CANYON PROJECT

SCHEDULE OF RATES FOR POWER SERVICE

Effective:

— June 1, 1987, that being the first day of the June 1987 billing period.

Available:

— In the area served by the Boulder Canyon Project.

Applicable:

To power customers served by the Boulder Canyon Project supplied through one meter at one point of delivery, unless otherwise provided by contract.

Character and Conditions of Service:

Alternating current, 60 hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rate:

~~CAPACITY CHARGE: The Base Charge capacity rate is \$.75/kW month for each kW of rated capacity to which each contractor is entitled by contract during the billing period.~~

~~ENERGY CHARGE: The Base Charge energy rate is 3.410 mills/kWh for each kWh measured or scheduled at the point of delivery during the billing period, except for purchased power.~~

~~The Lower Basin Development Fund Contribution Charge is 4.5 mills/kWh for each kWh measured or scheduled to an Arizona purchaser and 2.5 mills/kWh for each kWh measured or scheduled to a California or Nevada purchaser, except for purchased power.~~

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Billing for Unauthorized Overruns:

~~———— For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual power obligations, such overruns shall be billed at 10 times the above Base Charge capacity and energy rates. The Lower Basin Development Fund Contribution Charge shall be also applied to each kWh of overrun.~~

Adjustments:

~~———— None.~~

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— Attachment No. 2

— Effective July 15, 1985

~~WESTERN AREA POWER ADMINISTRATION  
GENERAL POWER CONTRACT PROVISIONS~~

**TO BE REPLACED WITH CURRENT GPCP**

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Effective July 15, 1985

~~WESTERN AREA POWER ADMINISTRATION~~  
~~GENERAL POWER CONTRACT PROVISIONS~~

~~I. APPLICABILITY.~~

~~1. Applicability.~~

~~1.1 These General Power Contract Provisions shall be a part of the contract to which they are attached. These provisions set forth general conditions applicable to the contract. Specific terms set forth in the contract have precedence over any provisions herein.~~

~~1.2 If the Contractor has member utilities which are either directly or indirectly receiving benefits from the contract, then the Contractor shall require such members to comply with the General Power Contract Provisions, Articles 16, 25, 27, 30, 31, 39, 40, and 41.~~

~~II. DELIVERY OF SERVICE.~~

~~2. Character of Service.~~

~~Electric energy supplied or transmitted under the contract will be three-phase, alternating current, at a nominal frequency of sixty (60) hertz (cycles per second).~~

~~3. Use of Capacity or Energy in Excess of Contract Obligation.~~

~~The Contractor is not entitled to use Federal power, energy, or capacity in amounts greater than the Western contract delivery obligation in effect for each type of service provided for in the contract except with the approval of the Contracting Officer. Unauthorized overruns of contract delivery obligations shall be subject to charges specified in the contract or the applicable rate schedules. Overruns shall not establish any continuing right thereto and the Contractor shall cease any overruns when requested by the Contracting Officer, or in the case of authorized overruns, when the approval expires, whichever occurs first. Nothing in the contract shall obligate Western to increase any delivery obligation. If additional power, energy, or capacity is not available from Western, the responsibility for securing additional power, energy, or capacity shall rest wholly with the Contractor.~~

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~~4. Continuity of Service.~~

~~Electric service will be supplied or transmitted continuously except for: (1) fluctuations, interruptions, or reductions due to uncontrollable forces, as defined in Article 28 herein, (2) fluctuations, interruptions, or reductions due to operation of devices installed for power system protection; and (3) temporary fluctuations, interruptions, or reductions, which, in the opinion of the party supplying the service,~~

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~~are necessary or desirable for the purposes of maintenance, repairs, replacements, installation of equipment, or investigation and inspection. The party supplying service, except in case of emergency, will give the party to whom service is being provided reasonable advance notice of such temporary interruptions or reductions and will remove the cause thereof with diligence.~~

~~5. Multiple Points of Delivery.~~

~~When electric service is supplied at or transmitted to two or more points of delivery under the same rate schedule, said rate schedule shall apply separately to the service supplied at or transmitted to each point of delivery; Provided, That where the meter readings are considered separately, and during abnormal conditions, the Contractor's system is interconnected between points of delivery such that duplication of metered power is possible, the meter readings at each affected point of delivery will be adjusted to compensate for duplication of power demand recorded by meters at alternate points of delivery due to abnormal conditions which are beyond the Contractor's control or temporary conditions caused by scheduled outages.~~

~~6. Metering.~~

~~6.1 The total electric power and energy supplied or transmitted under the contract will be measured by metering equipment to be furnished and maintained by Western or by the Contractor acting as the designated representative of Western. The contractor shall ensure that metering equipment furnished and maintained by the Contractor or another power supplier, as provided in the contract, meets the metering standards of Western if such metering equipment will be used for billing or other accounting purposes by Western.~~

~~6.2 Meters shall be sealed and the seals shall be broken only upon occasions when the meters are to be inspected, tested, or adjusted, and representatives of the interested parties shall be afforded reasonable opportunity to be present upon such occasions. Metering equipment shall be inspected and tested at least once each year by the party responsible for meter maintenance and at any reasonable time upon request by either party hereto, a supplemental power supplier, transmission agent, or control area operator. Any metering equipment found to be damaged, defective, or inaccurate shall be repaired and readjusted or replaced by the party responsible for meter maintenance. Meters found with broken seals shall be tested for tampering and, if appropriate, meter readings shall be adjusted by Western pursuant to Article 6.3 below.~~

~~6.3 Except as otherwise provided in Article 6.4 hereof, should any meter that is needed by Western for billing or other accounting purposes fail to register accurately, the electric power and energy supplied or transmitted during such period of failure to register accurately, shall, for billing purposes, be estimated by the Contracting Officer from the best available information.~~

~~6.4 If acceptable inspections and tests of a meter needed by Western for billing or other accounting purposes disclose an error exceeding two percent (2%), then correction based upon the inaccuracy found shall be made of the records of services furnished during the period that such inaccuracy~~

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~~has existed as determined by the Contracting Officer; Provided, That if such period of inaccuracy cannot be determined, correction shall be made for the period beginning with the monthly billing period immediately preceding the billing period during which the test was made.~~

~~—————6.5———— Any correction in billing resulting from correction in meter records shall normally be made in the next monthly bill rendered by Western to the Contractor. Payment of such bill shall constitute full adjustment of any claim between the parties hereto arising out of inaccuracy of metering equipment.~~

~~—————7.———— Existence of Transmission Service Contract.~~

~~If the contract provides for Western to furnish services using the facilities of a third party, the obligation of Western shall be subject to and contingent upon the existence of a transmission service contract granting Western rights to use such facilities. If Western acquires or constructs facilities which would enable it to furnish direct service to the Contractor, Western, at its option, may furnish services over its own facilities.~~

~~—————8.———— Conditions of Transmission Service.~~

~~8.1———— When the electric service under the contract is furnished by Western over the facilities of others by virtue of a transmission service arrangement, the power and energy will be furnished at the voltage available and under the conditions which exist from time to time on the transmission system over which the service is supplied.~~

~~8.2———— The Contractor shall maintain a power factor at each point of delivery from Western's transmission agent as required by the transmission agent.~~

~~8.3———— Western will endeavor to inform the Contractor from time to time of any changes contemplated on the system over which the service is supplied, but the costs of any changes made necessary in the Contractor's system because of changes or conditions on the system over which the service is supplied shall not be a charge against or a liability of Western.~~

~~8.4———— If the Contractor, because of changes or conditions on the system over which service under the contract is supplied, is required to make changes on its system at its own expense in order to continue receiving service under the contract, then the Contractor may terminate service under the contract upon not less than sixty (60) days' written notice given to the Contracting Officer prior to making such changes, but not thereafter.~~

~~8.5———— If Western notifies the Contractor that electric service provided for under the contract cannot be delivered to the Contractor because of an insufficiency of capacity available to Western in the facilities of others over which service under the contract is supplied, then the Contractor may terminate service under the contract upon not less than sixty (60) days' written notice given to the~~

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~~Contracting Officer prior to the date on which said capacity ceases to be available to Western, but not thereafter.~~

~~9. Multiple Points of Delivery Involving Direct and Indirect Deliveries.~~

~~When Western has provided line and substation capacity under the contract for the purpose of delivering electric service directly to the Contractor at specified direct points of delivery and also has agreed to absorb transmission service allowance or discounts for deliveries of energy over other system(s) to indirect points of delivery and the Contractor shifts any of its loads served under the contract from direct delivery to indirect delivery, Western will not absorb the transmission service costs on such shifted load until the unused capacity, as determined solely by the Contracting Officer, available at the direct delivery points affected is fully utilized.~~

~~III. RATES, BILLING AND PAYMENT.~~

~~10. Change of Rates.~~

~~Rates applicable under the contract shall be subject to change by Western in accordance with appropriate rate adjustment procedures. If at any time the United States promulgates a rate changing a rate then in effect under the contract, it will promptly notify the Contractor thereof. Rates shall become effective as to the contract as of the effective date of such rate. The Contractor, by written notice to the Contracting Officer within ninety (90) days after the effective date of a rate change, may elect to terminate the service billed by Western under the new rate. Said termination shall be effective on the last day of the billing period requested by the Contractor not later than two (2) years after the effective date of the new rate. Service provided by Western shall be paid for at the new rate regardless of whether the Contractor exercises the option to terminate service.~~

~~11. Minimum Seasonal or Annual Capacity Charge.~~

~~When the rate in effect under the contract provides for a minimum seasonal or annual capacity charge, a statement of the minimum capacity charge due, if any, shall be included in the bill rendered for service for the last billing period of the service season or contract year as appropriate, adjusted for increases or decreases in the contract rate of delivery and for the number of billing periods during the year or season in which service is not provided. Where multiple points of delivery are involved and the contract rate of delivery is stated to be a maximum aggregate rate of delivery for all points, in determining the minimum seasonal or annual capacity charge due, if any, the monthly capacity charges at the individual points of delivery shall be added together.~~

~~12. Billing and Payment.~~

~~12.1 Western will issue bills to the Contractor for service furnished during the preceding month within ten (10) days after the end of the billing period.~~

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~~12.2 If Western is unable to issue a timely monthly bill, it may elect to render an estimated bill for that month to be followed by the final bill. Such estimated bill shall be subject to the same payment provisions as a final bill.~~

~~12.3 Payments are due and payable by the Contractor before the close of business on the twentieth (20<sup>th</sup>) calendar day after the date of issuance of each bill or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday. Bills shall be considered paid when payment is received by Western; Provided, That payments received by mail will be accepted as timely and without assessment of the charge provided for in Article 13 provided a United States Post Office first class mail postmark indicated the payment was mailed at least three (3) calendar days before the due date.~~

~~12.4 Whenever the parties agree, payments due Western by the Contractor may be offset against payments due the Contractor by Western for the sale or exchange of electric power and energy, use of transmission facilities, operation and maintenance of electric facilities, and other services. 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 for information that either party requires for billing purposes. Net billing shall not be used for any amounts due which are in dispute.~~

~~13. Nonpayment of Bills in Full When Due.~~

~~13.1 Bills not paid in full by the Contractor by the due date specified in Article 12 hereof shall bear an initial charge of two percent (2%) of the amount unpaid. Each day thereafter, a charge of five hundredths percent (0.05%) of the principal sum unpaid shall be added until the amount due, including the two percent (2%) initial charge, is paid in full. Payments received will first be applied to the charges for late payment assessed on the principal and then to payment of the principal.~~

~~13.2 Western shall have the right, upon not less than fifteen (15) days advance written notice, to discontinue furnishing the services specified in the contract for nonpayment of bills in full when due, and to refuse to resume such services so long as any part of the amount due remains unpaid. Such a discontinuance of service will not relieve the Contractor of liability for minimum charges during the time service is so discontinued. The rights reserved to Western herein shall be in addition to all other remedies available to Western either at law or in equity, for the breach of any of the terms hereof.~~

~~14. Adjustments for Fractional Billing Period.~~

~~For a fractional part of a billing period at the beginning or end of electric service, at the beginning or end of irrigation pumping service each year, a fractional billing period under a new rate schedule, and for fractional periods due to withdrawals of electric services, the demand or capacity charge and minimum charges shall each be proportionately adjusted in the ratio that the number of hours that electric service is available to the Contractor in such fractional billing period bears to the total number of hours in the billing period involved.~~

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~~15. Adjustments for Curtailments to Firm Service.~~

~~15.1—Billing adjustments will be made if firm electric service is interrupted or reduced because of conditions on the power system of the United States for periods of 1 hour or longer in duration each. Billing adjustments will not be made when such curtailment of electric service is due to a request by the Contractor or a discontinuance of electric service by Western pursuant to Article 13 (Nonpayment of Bills In Full When Due). For purposes of billing adjustments under this article, the term power system of the United States shall include transmission facilities used under contract but not owned by the United States.~~

~~15.2—The total number of hours of curtailed firm electric service in any billing period shall be determined by adding: (1) the sum of the number of hours of interrupted electric service to (2) the product, for each reduction, of: the number of hours of reduced electric service and the percentage by which electric service was reduced below the delivery obligation of Western at the time of each said reduction of electric service. The demand or capacity charge and applicable minimum charges shall each be proportionately adjusted in the ratio that the total number of hours of electric service determined to have been curtailed bears to the total number of hours in the billing period involved.~~

~~15.3—The Contractor shall make written claim within thirty (30) days after receiving the monthly bill, for adjustment on account of any curtailment of firm electric service, for periods of 1 hour or longer in duration each, alleged to have occurred that is not reflected in said bill. Failure to make such written claim, within said thirty day (30 day) period, shall constitute a waiver of said claim. All curtailments of electric service, which are due to conditions on the power system of the United States, shall be subject to the provisions of this section; Provided, That withdrawal of power and energy under the contract shall not be considered a curtailment of electric service.~~

~~IV. USE OF FIRM POWER.~~

~~16. Resale of Firm Electric Service.~~

~~The Contractor shall not sell any firm electric power or energy supplied under the contract to any electric utility customer of the Contractor for resale by the utility customer; Provided, That the Contractor may sell the electric power and energy supplied under the contract to its members on condition that said members not sell any of said power and energy to any customer of the member for resale by that customer.~~

~~V. FACILITIES.~~

~~17. Design Approval.~~

~~All facilities, construction, and installation by the contractor pursuant to the contract shall be subject to the approval of Western. Facilities interconnections shall normally conform to Western's~~

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~~current “General Requirements for Interconnection,” in effect upon the signing of the contract document providing for each interconnection, copies of which are available from the Contracting Officer. At least ninety (90) days, unless otherwise agreed, prior to the date the Contractor proposes to commence construction or to incur an obligation to purchase facilities to be installed pursuant to the contract, whichever date is the earlier, the Contractor shall submit, for the approval of Western, detailed designs, drawings, and specifications of the facilities the Contractor proposes to purchase, construct, and install. The Contractor assumes all risks for construction commenced or obligations to purchase facilities incurred prior to receipt of approval from Western. Western review and approval of designs and construction work in no way implies that Western is certifying that the designs meet the Contractor’s needs.~~

~~18. Inspection and Acceptance.~~

~~Western shall have the right to inspect the materials and work furnished by the Contractor, its agents, employees, and subcontractors pursuant to the contract. Such inspections shall be at reasonable times at the worksite. Any materials or work that the Contracting Officer determines is defective or not in accordance with designs, drawings, and specifications, as approved by Western, shall be replaced or modified, as directed by Western, at the sole expense of the contractor before the new facilities are energized.~~

~~19. As-Built Drawings.~~

~~Within a reasonable time, as determined by the Contracting Officer, after the completion of construction and installation of facilities pursuant to the contract, the Contractor shall submit to Western marked as-built prints of all Western drawings affected by changes made pursuant to the contract and reproducible drawings the Contractor has prepared showing facilities of Western. The Contractor’s drawings of Western facilities shall use drawing title blocks, drawing numbers, and shall be prepared in accordance with drafting standards all as approved by the Contracting Officer. Western may prepare, revise, or complete said drawings and bill the Contractor if the Contractor fails to provide such drawings to Western within a reasonable time as determined by the Contracting Officer.~~

~~20. Equipment Ownership Markers.~~

~~20.1 The Contractor shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on United States right of way or in Western substations pursuant to the contract which are owned by the Contractor, by permanently affixing thereto suitable markers clearly identifying the Contractor as the owner of said equipment and facilities.~~

~~20.2 If requested by the Contractor, Western shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the Contractor’s right of way or in the Contractor’s substations pursuant to the contract which are owned by the United States, by permanently affixing thereto suitable markers clearly identifying the United States as the owner of said equipment and facilities.~~

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~~21. Third-party Use of Facilities.~~

~~\_\_\_\_\_ The Contractor shall notify Western of any proposed system change relating to the facilities governed by the contract or allowing third-party use of the facilities governed by the contract. If Western notifies the Contractor that said system change will, as solely determined by the Contracting Officer, adversely affect the operation of Western's system the Contractor shall, at no cost to Western, provide a solution to said adverse effect acceptable to Western.~~

~~22. Changes to Western Control Facilities.~~

~~If at any time during the term of the contract, the Contracting Officer determines that changes or additions to control, relay, or communications facilities are necessary to maintain the reliability or control of Western's transmission system, and said changes or additions are entirely or partially required because of the Contractor's equipment installed under the contract, such changes or additions shall, after consultation with the Contractor, be made by Western with all costs or a proportionate share of all costs, as determined by the Contracting Officer, to be paid by the Contractor. The Contracting Officer shall notify the Contractor in writing of the necessary changes or additions and the estimated costs to be paid by the Contractor. If the Contractor fails to pay its share of said estimated costs, the Contracting Officer shall have the right, after giving sixty (60) days' written notice to the Contractor, to terminate the applicable facility installation provisions of the contract and require the removal of the Contractor's facilities.~~

~~23. Modification of Western Facilities.~~

~~Western reserves the right, at any time, to modify its facilities. Western shall keep the Contractor informed of all planned modifications to Western facilities which impact the facilities installation pursuant to the contract. Western shall permit the Contractor to change or modify its facilities, in a manner satisfactory to and at no cost or expense to Western, to retain the facilities interconnection pursuant to the contract. At the Contractor's option, Western shall cooperate with the Contractor in planning alternate arrangements for service which shall be implemented at no cost or expense to Western. The Contractor and Western shall modify the contract, as necessary, to conform to the new facilities arrangements.~~

~~24. Transmission Rights.~~

~~If the contract involves an installation which sectionalizes a Western transmission line, the Contractor hereby agrees to provide a transmission path to Western across such sectionalizing facilities at no cost or expense to Western. Said transmission path shall be at least equal, in terms of capacity and reliability, to the path in the Western transmission line prior to the installation pursuant to the contract.~~

~~25. Construction, Operation, and Maintenance of Contractor's Power System.~~

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~~\_\_\_\_\_ The Contractor shall and, if applicable, shall require each of its members or transmission agents to construct, operate, and maintain its power system in a manner which, as determined by the Contracting Officer, will not interfere with the operation of the system of Western or its transmission agents over which electric services are furnished to the Contractor under the contract, and in a manner which will coordinate with the protective relaying and other protective arrangements of the system(s) of Western or Western's transmission agents. Western may reduce or discontinue furnishing services to the Contractor if, after notice by the Contracting Officer, the Contractor fails or refuses to make such changes as may be necessary to eliminate an unsatisfactory condition on the Contractor's power system which is determined by the Contracting Officer to interfere significantly under current or probable conditions with any service supplied from the power system of Western or from the power system of a transmission agent of Western. Such a reduction or discontinuance of service will not relieve the Contractor of liability for any minimum charges provided for in the contract during the time said services are reduced or discontinued. Nothing in this article shall be construed to render Western liable in any manner for any claims, demands, costs, losses, causes of action, damages, or liability of any kind or nature arising out of or resulting from the construction, operation, or maintenance of the Contractor's power system.~~

~~\_\_\_\_\_ 26. Construction and Safety Procedures.~~

~~26.1 The Contractor hereby acknowledges that it is aware of the hazards inherent in high-voltage electric lines and substations, and hereby assumes full responsibility at all times for the adoption and use of necessary safety measures required to prevent accidental harm to personnel engaged in the construction, inspection, testing, or removal activities of employees, agents, and subcontractors of the Contractor shall comply with all applicable safety laws and building and construction codes, including the provisions of Western's current "Power System Safety Manual," "Construction, Safety, and Health Standards," and "Power System Clearance procedures" in effect upon the signing of the contract. Except, That, in lieu of the safety program required herein, the Contractor may provide sufficient information to demonstrate that the Contractor's safety program is satisfactory to the United States.~~

~~\_\_\_\_\_ 26.2 The Contractor and its authorized employees, agents, and subcontractors shall familiarize themselves with the location and character of all the transmission facilities of Western and interconnections of others relating to the construction work performed by the Contractor under the contract. Prior to starting any construction, installation, or removal work, the Contractor shall submit a plan of procedure to Western which shall indicate the sequence and method of performing the work in a safe manner. No work shall be performed by the Contractor, its employees, agents, or subcontractors until written authorization to proceed is obtained from the Contracting Officer.~~

~~\_\_\_\_\_ 26.3 At all times when the Contractor, its employees, agents, or subcontractors are performing activities of any type pursuant to the contract, such activities shall be under supervision of a qualified employee, agent, or subcontractor of the Contractor who shall be authorized to represent the Contractor in all matters pertaining to the activity being performed. The Contractor and Western will keep each other informed of the names of their designated representatives at the construction site.~~

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~~26.4 Upon completion of its work, the Contractor shall remove from the vicinity of the right of way of the United States all buildings, rubbish, used materials, concrete form, and other like material belonging to it or used under its direction during construction or installation, and in the event of failure to do so the same may be removed by Western at the expense of the Contractor.~~

~~26.5 In the event the Contractor, its employees, agents, or subcontractors fail to comply with any provision of this article, or Article 18 herein, the Contracting Officer or an authorized representative may issue an order to stop all or any part of the work until such time as the Contractor demonstrates compliance with the provision at issue. The contractor, its employees, agents, or subcontractors shall make no claim for compensation or damages resulting from such work stoppage.~~

~~VI. GENERAL PROVSIONS.~~

~~27. Contract Subject to Colorado River Compact.~~

~~Where the energy sold under the contract is generated from Waters of the Colorado River system, the contract is made upon the express condition and with the express covenant that all rights under the contract shall be subject to and controlled by the Colorado River Compact approved by Section 13(a) of the Boulder Canyon Project Act of December 21, 1928, (45 Stat.1057) and the parties to the contract shall observe and be subject to and controlled by said Colorado River Compact in the construction, management, and operation of the dams, reservoirs, and powerplants from which electrical energy is to be furnished by Western to the Contractor under the contract, and in the storage, diversion, delivery, and use of water for the generation of electrical energy to be delivered by Western to the Contractor under the contract.~~

~~28. Uncontrollable Forces.~~

~~Neither party shall be considered to be in default in performance of any of its obligations under the contract, except to make payment as specified in Article 12 herein, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such party could not reasonable have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require a party to settle any strike or labor dispute in which it may be involved. Either party rendered unable to fulfill any of its obligations under the contract by reason of an uncontrollable force shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.~~

~~29. Liability.~~

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~~29.1 The Contractor hereby agrees to indemnify and hold harmless the United States, its employees, agents, or subcontractors, from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the Contractor's, its employees', agents', or subcontractors', construction, operation, maintenance, or replacement activities under the contract.~~

~~29.2 The United States is liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, as amended.~~

~~30. Environmental compliance.~~

~~Facilities to be constructed under the contract by any party shall be constructed subject to compliance with laws, executive orders, and regulations applicable to that party, including the National Environmental Policy Act of 1969 and the Archeological Resources Protection Act of 1979.~~

~~31. Cooperation of Contracting Parties.~~

~~If, in the operation and maintenance of their respective power systems or electrical equipment and the utilization thereof for the purposes of the contract, it becomes necessary by reason of any emergency or extraordinary condition for either party to request the other to furnish personnel, materials, tools, and equipment for the accomplishment thereof, the party so requested shall cooperate with the other and render such assistance as the party so requested may determine to be available. The party making such requests, upon receipt of properly itemized bills from the other party, shall reimburse the party rendering such assistance for all costs properly and reasonably incurred by it in such performance, including administrative and general expenses, such costs to be determined on the basis of current charges or rates used in its own operations by the party rendering assistance. Issuance and payment of bills for services provided by Western shall be in accordance with Articles 12 (Billing and Payment) and 13 (Nonpayment of Bills in Full When Due) herein. Western shall pay bills issued by the Contractor for services provided as soon as the necessary vouchers can be prepared which shall normally be within twenty (20) days.~~

~~32. Transfer of Interest in Contract by Contractor.~~

~~No voluntary transfer of the contract or of the rights of the Contractor under the contract shall be made without the written approval of the Administrator of Western; Provided, That if the Contractor operates a project financed in whole or in part by the Rural Electrification Administration, the Contractor may transfer or assign its interest in the contract to the Rural Electrification Administration or any other department or agency of the Federal Government without such written approval; Provided further, That any successor to or assignee of the rights of the Contractor, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the provisions and conditions of the contract to the same extent as though such successor or assignee were the original Contractor under the~~

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~~contract; and, Provided further, That the execution of a mortgage or trust deed, or judicial or foreclosure sales made thereunder, shall not be deemed voluntary transfers within the meaning of this article.~~

~~33. Waivers.~~

~~Any waivers at any time by either party to the contract of its rights with respect to a default or any other matter arising under or in connection with the contract shall not be deemed a waiver with respect to any subsequent default or matter.~~

~~34. Notices.~~

~~Any notice, demand, or request required by the contract or the provisions of these articles to be in writing shall be considered properly given when delivered in person, or sent by either registered or certified mail, postage prepaid, or prepaid telegram addressed to each party's authorized representative at the principal offices of the party. The designation of the person to be notified may be changed at any time by similar notice.~~

~~35. Contingent Upon Appropriations.~~

~~Where activities provided for in the contract extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States obligations under the contract. In case such appropriation is not made, the Contractor hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.~~

~~36. Officials Not to Benefit.~~

~~No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of the contract or to any benefit that may have arisen from the contract, but this restriction shall not be construed to extend to the contract if made with a corporation or company for its general benefit.~~

~~37. Covenant Against Contingent Fees.~~

~~The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warrant, Western shall have the right to annul the contract without~~

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~~liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.~~

~~38. Operating Guidelines and Procedures.~~

~~The Contractor and Contracting Officer may agree upon and put into effect from time to time, such other written guidelines and procedures as may be required in order to establish the methods of operation of the power system to be followed in the performance of the contract.~~

~~39. Contract Work Hours and Safety Standards.~~

~~The contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), (the Act), is subject to the following terms and all other applicable provisions and exceptions of the Act and the regulations of the Secretary of Labor.~~

~~39.1 Overtime Requirements.~~

~~A Contractor or subcontractor shall not require or permit any laborer or mechanic to work in excess of 8 hours in any calendar day, or 40 hours in any workweek, on any part of the contract work subject to the Act; unless, the laborer or mechanic receives compensation at a rate not less than 1 ½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in any workweek, whichever produces the greater amount of overtime.~~

~~39.2 Violation, Liability for Unpaid Wages, and Liquidated Damages.~~

~~If the terms of paragraph 39.1 above are violated, the contractor and any subcontractor responsible for the violation shall be liable to any affected employee for unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States for liquidated damages. These damages are computed for each individual laborer or mechanic at \$10 for each calendar day on which the employee was required or permitted to be employed in violation of paragraph 39.1 above.~~

~~39.3 Withholding for Unpaid Wages and Liquidated Damages.~~

~~The Contracting Officer may withhold from the Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such amounts as may administratively be determined to be necessary to satisfy any liabilities of the Contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph 39.2 above.~~

~~39.4 Subcontracts.~~

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~~\_\_\_\_\_ The Contractor and subcontractor shall insert paragraphs 39.1 through 39.4 of this article in all subcontracts.~~

~~\_\_\_\_\_ 39.5 Records.~~

~~\_\_\_\_\_ The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(A). These records shall be preserved for 3 years from contract completion. The Contractor will make the records available for inspection by authorized representatives of the Contracting Officer and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.~~

~~\_\_\_\_\_ 40. Equal Employment Practices.~~

~~\_\_\_\_\_ During the performance of the contract, and to the extent required by applicable law, the Contractor agrees as follows:~~

~~\_\_\_\_\_ 40.1 The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the Provisions of this Article.~~

~~\_\_\_\_\_ 40.2 The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.~~

~~\_\_\_\_\_ 40.3 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Article, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.~~

~~\_\_\_\_\_ 40.4 The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor and to the Age Discrimination Act of 1967 as amended by Public Law 93-259 of April 18, 1974.~~

~~\_\_\_\_\_ 40.5 The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the~~

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~~Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.~~

~~40.6 In the event the Contractor fails to comply with any of the provisions of this article, the contract may be cancelled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.~~

~~40.7 The Contractor will include the provisions of paragraphs 40.1 through 40.7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1964, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Contracting Officer, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.~~

~~41. Use of Convict Labor:~~

~~The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the contract except as provided by 18 U.S.C 4082( c ) (2) and Executive Order 11755, December 29, 1973.~~

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Description	2014-10-27 MASTER REDLINE with All Changes Accepted
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