



**United States
Department of Energy**

**WESTERN AREA
POWER ADMINISTRATION**

**Desert Southwest
Regional Office**

CONTRACT

AMENDMENT NO. 1

TO

[INTERAGENCY AGREEMENT] CONTRACT NO. _____

BETWEEN

**UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
Desert Southwest Regional Office
Parker-Davis Project**

AND

[CONTRACTOR]

FOR

ELECTRIC SERVICE

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TO

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FOR

ELECTRIC SERVICE

1. **PREAMBLE:** This Contract Amendment No. 1 (Amendment) is made this ____ day of _____, 2004, pursuant to the following Acts of Congress: the Reclamation Act, approved June 17, 1902 (32 Stat. 388); the Act of March 4, 1921 (41 Stat. 1404, 43 U.S.C. 395), popularly referred to as the Contributed Funds Act; the Interior Department Appropriation Act for 1928, Act of January 12, 1927 (44 Stat. 934); the Reclamation Project Act of 1939, dated August 4, 1939 (53 Stat. 1187, 43 U.S.C. 485); the Consolidated Parker Dam Power Project and Davis Dam Project Act, dated May 28, 1954 (68 Stat. 143); the Department of Energy Organization Act, Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101); the Money and Finance Act, commonly referred to as the Economy Act, dated September 13, 1982 (Public Law 97-258, 31 U.S.C. 1535); the Energy Policy Act of 1992, dated October 24, 1992 (Public Law 102-486); and acts amendatory or supplementary to the forgoing Acts, between the UNITED STATES OF AMERICA, Department of Energy, acting by and through the Western Area Power

Administration (Western), and _____
(Contractor or [insert acronym used in original contract]) as part of Contract
No. _____ (Original Contract), as may be amended, pursuant to the
same authorities as the Original Contract, and subject to all of the provisions of the
Original Contract, except as herein amended, each of which may be referred to herein
individually as Party and collectively as Parties.

2. **EXPLANATORY RECITALS:**

2.1 Western and Contractor entered into the Original Contract for the sale of
long-term firm electric service, dated _____, pursuant to Conformed
General Consolidated Power Marketing Criteria or Regulations for Boulder City Area
Projects (49 FR 50582, December 28, 1984; corrections, 50 FR 7823, February 26, 1985)
and Final Allocation Criteria and Allocation of Capacity and Associated Energy from the
Parker-Davis Project (52 FR 3833, July 29, 1987).

2.2 Western adopted the Energy Planning and Management Program
(EPAMP), effective November 20, 1995, which consisted of two components: (1) a
requirement that all Parker-Davis Project (PDP) firm electric service contractors prepare
Integrated Resource Plans (IRP) and (2) a Power Marketing Initiative (PMI) under which
Western may extend a portion of Federal resource commitments to its existing
contractors.

2.3 In the Federal Register Notice (67 FR 51580), dated August 8, 2002
(FRN), Western proposed application of the PMI to the PDP, and the public was given
opportunities to discuss and comment on Western's proposal.

2.4 After evaluating all comments received, Western announced, in the
Federal Register (68 FR 23709), dated May 5, 2003 (Final FRN), its decision to extend

contracts to PDP firm electric service contractors for twenty (20) years, beginning October 1, 2008, and its decision to require payment in advance for PDP firm electric service, as provided in Section 6 of this Amendment.

2.5 The Parties now desire to implement the results of the Final FRN for application of the EPAMP PMI, payment in advance for PDP firm electric service, and conforming modifications, including extension of the Original Contract through September 30, 2028.

2.6 Western desires to implement the provisions of this Amendment upon execution by the Parties, except that modification of the current Contract Rate of Delivery (CROD), as set forth in Exhibit A-1 will not become effective until October 1, 2008, as provided in Section]number as appropriate of this Amendment.

3. **AGREEMENT**: The Parties agree to the terms and conditions set forth herein.

4. **MODIFICATION OF SECTION 3 OF THE ORIGINAL CONTRACT (TERM OF CONTRACT)**: Subsection 3.1 of the Original Contract is amended to extend the term to September 30, 2028, by the deletion of the termination year “2008” and the substitution of the termination year “2028” therefore.

5. [A] **MODIFICATION OF SECTION 5 OF THE ORIGINAL CONTRACT (FIRM ELECTRIC SERVICE)**: Section 5 of the Original Contract is amended in the following manner:

5.1 Subsections 5.1.1 and 5.1.2 of Section 5 of the Original Contract are deleted in their entirety and replaced by the following:

“5.1.1 The maximum aggregate rate of delivery for all points of delivery in any monthly billing period shall not exceed the CROD established for that season. The CROD will be available in any

hour within the billing period. Western's seasonal CROD to the Contractor shall be as set forth in Exhibit A hereto.

5.1.2 Western's Seasonal Energy: Obligations to the Contractor shall be equal to the product of the Contractor's CROD multiplied by 3,441 kWh per kW in the Summer Season and the product of the Contractor's CROD multiplied by 1,703 kWh per kW in the Winter Season and shall be as set forth in Exhibit A hereto. Except as otherwise agreed by the Parties in writing, the Contractor may not transfer energy from season to season."

5.2 Subsection 5.4 of Section 5 of the Original Contract is deleted in its entirety and replaced by the following:

"5.4 Point(s) of Delivery, Voltage(s), and Loss Adjustments: Electric service furnished to the Contractor will be delivered at the point(s) and voltage(s) set forth in Exhibit B hereto. Any transmission costs and associated losses incurred to deliver said electric service to the PDP point(s) of delivery described in Exhibit B shall be the responsibility of Western. Any transmission costs and associated losses incurred to deliver electric service beyond the PDP point(s) of delivery to the point(s) at which the facilities of the Contractor or the Contractor's transmission provider are connected to the facilities of Western shall be the responsibility of the Contractor. If Western determines that additional facilities are necessary to deliver electric service beyond the PDP point(s) of delivery to the point at which the facilities of the Contractor or the Contractor's transmission provider are connected to the facilities of

Western, the Contractor shall pay a monthly charge to Western for capacity reserved in such facilities as specified in an exhibit made a part of this Contract. Western may waive the monthly charge provided that the Contractor or the Contractor's transmission provider pays a monthly interconnection charge for use of such facilities."

5. [B] **MODIFICATION OF SECTION 5 OF THE ORIGINAL CONTRACT**

(WITHDRAWABLE AND NONWITHDRAWABLE FIRM ELECTRIC

SERVICE): Section 5 of the Original Contract is amended in the following manner:

5.1 Subsections 5.1.1 and 5.1.2 of Section 5 of the Original Contract are deleted in their entirety and replaced by the following:

“5.1.1 The maximum aggregate rate of delivery for all points of delivery in any monthly billing period shall not exceed the CROD established for that season. The CROD will be available in any hour within the billing period. Western's seasonal CROD to the Contractor for withdrawable and nonwithdrawable firm capacity shall be as set forth in Exhibit A hereto.

5.1.2 Western's Seasonal Energy: Obligations to the Contractor shall be equal to the product of the Contractor's CROD multiplied by 3,441 kWh per kW in the Summer Season and the product of the Contractor's CROD multiplied by 1,703 kWh per kW in the Winter Season and shall be as set forth in Exhibit A hereto. Except as otherwise agreed by the Parties in writing, the Contractor may not transfer energy from season to season.”

5.2 Subsection 5.4 of Section 5 of the Original Contract is deleted in its

entirety and replaced by the following:

“5.4 Point(s) of Delivery, Voltage(s), and Loss Adjustments:

Electric service furnished to the Contractor will be delivered at the point(s) and voltage(s) set forth in Exhibit B attached hereto. Any transmission costs and associated losses incurred to deliver said electric service to the PDP point(s) of delivery described in Exhibit B shall be the responsibility of Western. Any transmission costs and associated losses incurred to deliver electric service beyond the PDP point(s) of delivery to the point(s) at which the facilities of the Contractor or the Contractor’s transmission provider are connected to the facilities of Western shall be the responsibility of the Contractor. If Western determines that additional facilities are necessary to deliver electric service beyond the PDP point(s) of delivery to the point at which the facilities of the Contractor or the Contractor’s transmission provider are connected to the facilities of Western, the Contractor shall pay a monthly charge to Western for capacity reserved in such facilities as specified in an exhibit made a part of this Contract. Western may waive the monthly charge provided that the Contractor or the Contractor’s transmission provider pays a monthly interconnection charge for use of such facilities.”

6. **MODIFICATION OF SECTION 6 OF THE ORIGINAL CONTRACT**

(BILLINGS, PAYMENT, AND SCHEDULE OF RATES): Section 6 of the Original Contract is deleted in its entirety and replaced by the following:

“6. **BILLINGS, PAYMENT, AND SCHEDULE OF RATES:**

6.1 Except as provided in subsection 6.2, below, Western shall

issue to the Contractor, in the month prior to the month the electric service is to be received (i.e. in advance of service), bills for electric service based on the capacity and energy shown in Exhibit A hereto. The Contractor shall pay for the electric service in accordance with Article 13 of the General Power Contract Provisions (GPCP) attached hereto; provided, however, subarticle 13.1 shall not apply. The Parties may also provide for payment in advance of service by such other means as may be mutually agreed to in writing by the Parties.

6.2 The bill issued pursuant to subsection 6.1, above, on or about September 1, 2004, must include charges for electric service furnished during August 2004 and to be furnished during October 2004. The bill issued pursuant to subsection 6.1 on or about October 1, 2004, must include charges for electric service furnished in September 2004 and to be furnished in November 2004.

6.3 The rate methodology, calculated charges, and conditions shall be as set forth in the current PDP Rate Schedule, attached hereto and made a part hereof, or any superseding rate schedule(s) promulgated pursuant to Article 11 of the GPCP.”

7. **MODIFICATION OF SECTION 10 OF THE ORIGINAL CONTRACT**

(CONSERVATION AND RENEWABLE ENERGY PROGRAM): Section 10 of the Original Contract is deleted in its entirety and replaced by the following:

“10. **INTEGRATED RESOURCE PLANS AND SMALL CUSTOMER**

PLANS:

10.1 The Contractor shall comply with the Integrated Resource Plan (IRP) or Small Customer Plan requirements, as applicable, in accordance with the Energy Planning and Management Program (EPAMP). EPAMP requires purchasers of Western’s electric power services to institute integrated resource planning, which is a planning process for new energy resources that evaluates the full range of energy conservation and energy efficiency alternatives.

10.2 Western shall administer the IRP or Small Customer Plan requirements, as applicable, in accordance with the EPAMP.

10.3 Failure to comply with the IRP or Small Customer Plan requirements, after exhaustion of all appeals, will result in the application of penalties as specified in the EPAMP Federal Register Notice (65 FR 16801), dated March 30, 2000.

10.4 In the event that Western, or any successor agency, shall promulgate changes to the IRP portion of the EPAMP following its initial adoption as published in the Federal Register at 60 FR 54151, dated October 20, 1995, the Contractor, by written notice to the Contracting Officer within ninety (90) days after the effective date of an EPAMP change, may elect to terminate this Contract. The termination shall be effective one (1) year from the date of receipt of the notice by Western.”

8. **DELETION OF SECTION ____ OF THE ORIGINAL CONTRACT (CHARGE FOR FUEL REPLACEMENT ENERGY SERVICE)**: Section ____ of the Original Contract is hereby deleted in its entirety.

9. **MODIFICATION OF SECTION ____ OF THE ORIGINAL CONTRACT (GENERAL POWER CONTRACT PROVISIONS MADE A PART OF CONTRACT)**: Section 16 of the Original Contract is deleted in its entirety and replaced by the following:

“16. **GENERAL POWER CONTRACT PROVISIONS MADE PART OF CONTRACT**:

16.1 The General Power Contract Provisions (GPCP) effective July 10, 1998, attached hereto, are hereby made a part of this Contract, the same as if they had been expressly set forth herein; provided, that Articles 20 through 30 shall not apply and provided further, that if the Articles in the GPCP are in conflict with this Contract, the provisions of this Contract shall control.

16.2 In addition to the forms of notice specified in Article 39 of the GPCP effective July 10, 1998, for purposes of complying with the notice requirements of this Contract, either the Contractor or Western may accomplish such notice by telecopy or facsimile transmission.

Communications related to scheduling provided from and to operating personnel of either Party may be accomplished by electronic mail. Where telecopy, facsimile, or electronic mail is utilized, the sending Party shall keep a contemporaneous record of such communications.”

10. **MODIFICATION OF SECTION OF THE ORIGINAL CONTRACT**

(EXHIBITS MADE A PART OF CONTRACT): Section 15 of the Original Contract is deleted in its entirety and replaced by the following:

“15. **EXHIBITS MADE A PART OF CONTRACT**:

15.1 Inasmuch as the Seasonal and Monthly Energy obligations, NERC Holidays, Off-Peak Hours, point(s) of delivery, point(s) of measurement, ownership of metering equipment, delivery and metering voltages and loss adjustments, and metering and associated responsibilities may change during the term of this Contract, they will be set forth in exhibits. Exhibits A, A-1, and B, as applicable, and others, which may be formulated or modified from time to time, are attached to this Contract and each is incorporated by reference as if fully set forth herein.

15.2 Contractor’s current Exhibit A, Monthly Delivery Obligations, shall remain in effect, and may be revised from time to time, through September 30, 2008.

15.3 The Exhibit A-1, Monthly Delivery Obligations, attached hereto, shall become effective on October 1, 2008, and shall remain in effect, and may be revised from time to time, through September 30, 2028.

15.4 On and after October 1, 2008, all references to Exhibit A shall be deemed to refer to Exhibit A-1.

15.5 [A] Exhibit C, Charge for Fuel Replacement Energy Service, is deleted in its entirety.”

Or, where applicable:

15.5 [B] Exhibit C, Charge for Use of Mead Substation Facilities,
is revised according to its terms.”

11. **ADDITION OF A NEW SECTION TO THE ORIGINAL CONTRACT**

(REPLACEMENT ADVANCES RECONCILIATION SURCHARGE): Section __

is hereby added to and made a part of the Original Contract:

“ __. **REPLACEMENT ADVANCES RECONCILIATION SURCHARGE:**

Contractors that are Party to Western's Advancement of Funds Contract No. 98-DSR-10870, also known as Bureau of Reclamation's Contract No. 8-CU-30-P1148, and have their contractual entitlement to capacity and associated energy from the PDP reduced due to conditions set forth therein, are entitled to receive payments for undepreciated replacement advances as provided therein. Contractors with new PDP allocations or an increased entitlement to receive electric service shall pay a replacement advances reconciliation surcharge (Surcharge), as determined by Western. Western shall submit bills for and the Contractor shall pay the Surcharge until the Surcharge obligation has been satisfied. The Contractor may remit annual payments over a period of up to five (5) years. Upon request by the Contractor and agreement by Western, the Contractor shall remit payments over a period of less than five (5) years. Interest will be applied on the Surcharge amount at the then current United States Treasury rate, as adjusted from time to time, on the Contractor's declining balance until paid. If the Contractor fails or refuses for any reason to pay the Surcharge, together with interest, within sixty (60) days after the date it is due, the

Contractor's new PDP allocation or increased entitlement to receive electric service shall be withdrawn, with 60-days advance written notice from Western."

12. **ADDITION OF A NEW SECTION TO THE ORIGINAL CONTRACT**
(REVIEW AND ADJUSTMENT OF FEDERAL POWER ALLOCATION):

Section__ is hereby added to and made a part of the Original Contract:

"12. **REVIEW AND ADJUSTMENT OF FEDERAL POWER**
ALLOCATION:

12.1 If the Administrator of Western determines, in his or her sole judgment, that actions taken by the Contractor have abrogated the Contractor's status as an entity with preference under Reclamation Law to purchase federal hydropower, then the Administrator may, at his or her sole option, terminate this contract or take other appropriate action.

12.2 Notwithstanding any other provision of the Contract to the contrary, Western's Administrator reserves the right to adjust Western's firm electric service obligations under this contract as he or she deems appropriate, if the Contractor's status, as of the date of execution of this Contract/Amendment, changes in some manner, including but not limited to: (1) merging with, acquiring, or being acquired by another organization, (2) creating a new organizational entity from an existing one, (3) joining or withdrawing from a member-based power supply organization, (4) if the Contractor is a member-based power supply entity (such as a generation and transmission cooperative), losing one or more

members from its membership organization, or (5) selling, leasing, or otherwise disposing of its, or a member's, electric distribution system.

12.3 The Contractor shall give Western at least ninety (90) days written notice prior to implementing any changes described in Subsection 12.1 and/or 12.2.

12.4 If the Administrator determines to take action because the Contractor's status will change or has changed in a manner addressed in subsections 12.1 and/or 12.2, Western will notify the Contractor of the Administrator's intended action prior to implementation of such action. If the Contractor disagrees with the Administrator's determination, the Contractor may request reconsideration from the Administrator. Requests for reconsideration to the Administrator shall be made in writing, and must be received by the Administrator within 45 days of the Contractor's receipt of the notice from the Administrator. The Administrator will provide the Contractor with Western's final decision within 45 days of receipt of the request for reconsideration, and Western's final decision will be implemented at that time. If the Contractor does not request reconsideration from the Administrator, Western will notify the Contractor of the implementation of the action."

13. **TERM OF THE CONTRACT AMENDMENT:**

13.1 This Amendment shall become effective on execution by both Parties, with the following exceptions:

13.1.1 Section 6 of this Amendment shall become effective October 1, 2004.

13.1.2 Subsection 6.2 of Section 6 of the Original Contract as amended by this Amendment shall operate as of September 1, 2004, for purposes of billing referenced therein; and

13.1.3 Exhibit A-1 shall become effective October 1, 2008.

13.2 This Amendment shall terminate concurrently with the Original Contract as amended.

14. **ORIGINAL CONTRACT TO REMAIN IN EFFECT**: Except as expressly modified by this Amendment, the Original Contract shall remain in force and effect, and this Amendment shall be subject to all provisions of the Original Contract.

15. **AUTHORITY TO EXECUTE**: Each individual signing this Amendment certifies that the Party represented has duly authorized such individual to execute this Amendment that binds and obligates the Party.

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