

WAPA JPA Comments Crosswalk

Customer Comments and WAPA's 9/28/2018 Draft Modifications/Responses

WAPA Draft Section No.	Customer Comments	Section No. Changes	WAPA's 9/28/2018 Draft Modification/Response
All Sections	<p>Definition for Contractor should be revised to address concerns about Tribal sovereign immunity.</p> <p>Should exclude the GPCPs from agreement. Please explain reasoning for inclusion.</p>	<p>Added: Section 14 Sovereign Immunity Section 17 Notices Section 18 Effect of Headings Section 19 Access to Materials Section 21 Incorporation of Explanatory Recitals, the Preamble, and Goals and Objectives</p>	<p>Updated definition of Contractor based on suggestion.</p> <p>Removed reference to GPCPs retaining only a few pertinent provisions that was inserted into the body of the JPA (i.e. Notices, Authorized Representatives, Effect of Section Headings).</p>
Explanatory Recitals Section 2.5, 2.8	Need to define what is included in the southern portion of the Intertie transmission systems - want to ensure clarity.		Intertie definition expanded to be more specific.
Goals and Objectives Section 3.1.5	<p>Some customers prefer to expand customer approval to all TYP projects regardless of funding source.</p> <p>If WAPA will not allow approval of all TYP projects, then customers want a non-binding vote.</p> <p>Section 3.1.1. What is included in "<i>input & recommendations to WAPA</i>"?</p> <p>Section 3.1.2. What is WAPA's meaning in "<i>opportunities for input into the formation of DSW transmission systems construction projects</i>"?</p>		<p>Participants will retain their ability to approve the use of prepayments for construction projects on a per project basis. See Exhibit A.</p> <p>As discussed at previous meetings, WAPA does not support non-binding voting. Section 8 updated to include how customer comments will be documented.</p> <p>Section 3.1.1 has been updated to provide clarity.</p> <p>Although, 3.1.2 has been redlined in the draft, WAPA believes the JPA effectively documents how the parties will collaborate and establishes opportunities for customers to engage with WAPA in the development of potential projects, AOAs, and vote on the use of prepayment funding for construction projects. WAPA believes this collaborative approach gives customers substantial input into the formation of construction projects.</p>
Goals and Objectives Section 3	Need to expand goals and objectives to ensure clarity that RRADs, O&M and rates are included.		Section 3.1.1 has been expanded to better describe the goals and objectives.

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Termination of Prior Agreements Section 5	<p>Need discussion on superseding of original JPA and/or Prepayment Funding MOU. There may be some entities who do not wish to sign a new agreement.</p> <p>Is an agreement needed for customers to vote? Why is it not feasible? What are the show stoppers?</p>		<p>Per comments received, Sections 5.1 and 6.2 have been updated to ensure a seamless transition from prior agreements to the JPA.</p> <p>As previously noted, WAPA stakeholder engagement will remain open to all parties regardless of their execution of an MOU, JPA, or Exhibit A. However, execution of Exhibit A is a necessity to ensure a reliable and accurate method of counting votes.</p>
Term of Agreement Section 6	Prefer the CTC's version in which WAPA should be able to terminate the agreement only when all other entities have terminated or agree to terminate.		<p>WAPA is not willing to execute an agreement in perpetuity. Reasonable termination provisions are needed.</p> <p>Per comments received, WAPA has modified Section 6 to have a defined term of ten years, with automatic renewal for successive ten year periods with WAPA able to terminate under the following circumstances:</p> <ol style="list-style-type: none"> 1) Prior to the next scheduled termination date of agreement. 2) With twelve months' notice in the event that Contractor participation falls below 25% for three consecutive key meetings identified in the attachments.
Definitions Section 7 Attachment No. 1	<p>These definitions need clarification and/or revision:</p> <ul style="list-style-type: none"> • Construction projects; • Contractor; • Intertie system description improvement needed. • Materials definition needs more clarity. Agreement says: "Documents, studies, and/or reports related to the implementation of this agreement." Should be "documents, studies and/or reports related to the WAPA functional area operations (studies, reports, status, criteria, budget vs actual data, etc.)." • Define and provide citation for Parker-Davis Project Consolidation Act; • Prepayments (Customer prepayments); perhaps add? In WAPA, these UBCs have been approved and collected to use for specific construction projects). • RRADs (Replace, REPAIR, Add and Delete), (Need revising?) • TYP definition should be improved upon. 	Moved Definitions from Attachment No. 1 to Section 7	<ul style="list-style-type: none"> • Attachments: Added • Construction Projects: Updated based on suggestions provided. • Contractor: Updated based on suggestions provided. • Intertie: Updated to add clarity. • Materials: Updated to add clarity. • Native American Tribe: Added • Parker-Davis Project: Added citation. • Prepayments: No change. • RRADs: Updated to add clarity. • TYP: Updated to add clarity.
Explanatory Recitals Section 2, Exhibits	Need to ensure that recitals are addressed adequately within (and as part of) the Agreement.	Section 21	Added Section 21 to incorporate the preamble, explanatory recitals, and goals and objectives as part of the JPA.

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Exchange of Information Section 8 Attachments Nos. 2 through 5	<p>WAPA's draft does not include Rates, O&M and PPW. Need to ensure these are fully addressed elsewhere.</p> <p>Section 8.1.2 Information: Need more clarification as to what WAPA means? Can be quite restrictive if strictly interpreted.</p> <p>Section 8.2. Replacements, Retirements, Additions and Deletions. Other documents refer to it as Replacement, Repairs, Additions and Deletions. Which is it?</p> <p>Section 8.4. Transmission Planning: 8.4 and the related attachment are inadequate. Does not align with previous discussions.</p>	Updated Attachment Nos. 1 through 4	<p>Provided clarification in Section 8.3 to ensure rates, O&M, and PPW are reported at the budget review meetings.</p> <p>Sections 8.1.2 and 8.2.3 were updated to clarify that WAPA intends to share information and materials that are not prohibited by Section 19, Access to Materials.</p> <p>RRADs refers to Replacements, Retirements, Additions, and Deletions.</p> <p>Section 8.4 and Attachment No. 4 were updated to clarify WAPA's intent to conduct meetings with the goal of facilitating transmission planning on a local and regional basis and avoid having the JPA cover individual customer planning services for a particular customer at the expense of the other ratepayers.</p>
Exhibit A	<p>Some customers want a vote on all TYP projects.</p> <p>Customers agree not to vote on RRADs, O&M or budget, at this time.</p> <p>MOU is outdated and incomplete.</p> <p>WAPA's draft requires that to vote on the use of prepayments a participant must not be in default on existing prepayment financial obligations. This is intended to ensure that only customers who are current on their payments may vote.</p> <p>WAPA's draft allows for the use of prepayments, subject to vote, for the design of construction projects. Additionally, mid-cycle projects may be introduced by WAPA, but funding of such projects still requires a vote.</p>		<p>WAPA's position is that participants will continue to vote on the use of prepayments for construction projects.</p> <p>Approval of RRADs, O&M and/or budgets has remained unchanged.</p> <p>WAPA agrees. Exhibit A corrects the MOU's deficiencies.</p> <p>WAPA believes customers have concurred on this provision and has retained the language regarding default on payments.</p> <p>WAPA believes customers have concurred on this provision and has retained the language.</p>
Limitations on What Parties are Obligated to Provide Section 15	<p>What is WAPA's official definition of these terms? If there is no NDA, does WAPA consider the information available to PDP/INT customers? Explain WAPA's position when a confidential project impacts existing customers.</p>		<p>Parties are not obligated to share confidential information under the JPA; however, WAPA is committed to sharing as much information as possible with the customers. Examples of confidential information may include, but is not limited to, substation drawings, protection schemes, communication systems and transmission drawings, remote terminal unit design and configuration schemes, control house building layout, power systems models, and customer interconnection drawings and plans.</p>

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Exchange of Information Section 8 10-Year Plan Process and Schedule Attachment No. 2 Transmission Planning Process & Schedule Attachment No.5	Section 8 and Attachment No. 4 are inadequate. Having to refer to outside documents provides confusion and more time. Customers prefer not to have to refer to other documents, but rather to document procedures within the JPA. This does not appear to match what was agreed to with customers in transmission planning meetings. Please explain.	Updated Attachment Nos. 1 and 4	Section 8.4 and Attachment No. 4 were updated to clarify WAPA's intent to conduct meetings with the goal of facilitating transmission planning on a local and regional basis while avoiding the JPA providing planning services for a particular customer at the expense of the other ratepayers. WAPA's OATT is administered WAPA-wide and provides for transmission planning. WAPA is not able to negotiate provisions that materially change its OATT, however, Attachment No. 4 provides for additional meeting opportunities to ensure the planning needs of WAPA's customers are properly addressed.
N/A (CTC Draft 8.2 Funding for Expenses)	Customers do not want to prevent WAPA from making improvements to the transmission system. Customers want to ensure WAPA makes reasonable and justified improvements to the system. Recommend we add the CTC's criteria language back in but clarify to address WAPA's concern.	Section 3.3 of Exhibit A	Based on further input and comments received, modified criteria has been added to Section 3.3 of Exhibit A. This criteria states that projects that are not included in the TYP, with exceptions, must either produce sufficient revenue or have been approved for prepayment funding by the participants.
Term of Agreement Section 6	Under what conditions would WAPA not terminate a customer from the JPA if they no longer have a contract with WAPA?		As discussed, WAPA seeks to preserve widespread engagement by stakeholders. WAPA does not support the automatic termination of the JPA for a customer who might have a short gap in transmission service, for example. There are no changes to Section 6.4.
Attachments Section 16	WAPA should not have sole authority to modify attachments without negotiations with customers. This is a bi-lateral agreement and attachments are also considered bi-lateral. Need to clarify in agreement.		The attachments document various WAPA processes and how WAPA will report information to customers. The processes are fundamentally WAPA's to manage, therefore, the draft JPA reflects WAPA's ability to unilaterally manage these attachments after collaborating with, and seeking input from, customers. To mitigate concerns, the more material elements of attachments have been moved into the body of the agreement, predominantly within Section 8, leaving the attachments to document details such as meeting regiments.
Parker-Davis Project Priority Use Power Section 13	PDP PUP has first priority over the transmission system and this should be expressed in the agreement.		Section 13 has been updated to highlight the statutory priority of PUP. Nothing in the JPA will impact that priority.

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Exchange of Information Section 8	<p>Two suggestions to resolve Tribal sovereign immunity issue:</p> <p>a) Change definition of Contractor to: <i>"An entity with one (1) or more contracts or agreements with WAPA who has chosen to be a Party to this Agreement."</i></p> <p>b) Add new language in appropriate place: <i>"Nothing in this Agreement or in any current or future schedules, attachments, exhibits, amendments or addenda is intended to be or shall be construed as a waiver of any tribe's sovereign immunity. The Parties understand and agree that neither this Agreement nor any underlying law or procedure shall confer jurisdiction on any state or federal court over any tribe for claims under the Agreement."</i></p>		<p>Definition of Contractor was updated as suggested.</p> <p>Added Section 14, Sovereign Immunity, as suggested.</p>
Exhibit A	<p>WAPA eliminated customer attendance at the Capital Planning Committee's Financial and Technical Sub-teams since those are internal WAPA planning teams.</p>		<p>Opportunities for customer participation in WAPA's capital planning is instead included in the TYP process and RRADs attachments. WAPA intends for capital planning to be a collaborative process in which customers can directly propose construction projects and alternatives for AOA studies.</p>
All Attachments	<p>WAPA's draft attachments provide a general overview of processes and materials to be provided.</p> <p>Customers want to memorialize specific procedures. Without more details, WAPA would not be committed to retain procedures agreed to and could take liberties in their interpretation.</p> <p>While some procedures may appear to be internal to WAPA, they document dates and processes that are important to the expected outcome.</p> <p>-A higher-level table seems feasible, as the CTC has provided the same previously, but should be in addition to the more detailed procedures.</p>		<p>To mitigate concerns, the more material elements of attachments have been moved into the body of the agreement, predominantly within Section 8, leaving the attachments to document details such as meeting regiments.</p> <p>WAPA reserves the ability to prescribe meeting dates or schedules to facilitate its processes.</p> <p>WAPA has distributed an updated table of anticipated meetings. It is not currently slated to be an attachment to the agreement, but could be incorporated if it adds sufficient value.</p>
Transmission Planning Process & Schedule Attachment No. 5	<p>WAPA's adherence to its OATT does not relieve (or circumvent) WAPA's requirement to provide power customers with transmission service.</p> <p>WAPA should provide more clarity in what they anticipate to provide to customers.</p>	<p>Updated Attachment No. to 4</p>	<p>Section 8.4 and Attachment No. 4 were updated to clarify WAPA's intent to conduct meetings with the goal of facilitating transmission planning on a local and regional basis while avoiding the JPA providing planning services for a particular customer at the expense of the other ratepayers.</p>

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	This reflects no change from current processes, which is inadequate.		WAPA's OATT is administered WAPA-wide and provides for transmission planning. WAPA is not able to negotiate provisions that materially change its OATT, however, Attachment No. 4 provides for additional meeting opportunities to ensure the planning needs of WAPA's customers are properly addressed.
10-Year Plan Process and Schedule Attachment No. 2 RRADs Attachment No. 3	Additional detail is needed on how and when decisions are made and how WAPA will consider customer input. Agree with the reporting of RRADs project with additional discussion for those RRADs >\$1 million. Please clarify WAPA's RRADs detail. What is meant by WAPA "program level" In Attachment No. 3?	Updated Attachment Nos. 1 and 2	Section 8 and Attachment No. 1 have been updated to provide additional clarity on processes and consideration of customer input. Moved the commitment of reporting additional information on RRADs >\$1 million from Attachment to Section 8.2 of agreement. Section 8.2 and Attachment No. 2 describe RRADs information to be provided, including further detail on scope and cost for RRADs that have an estimated cost >\$1 million. "Program level" is described as a high level overview, not a detailed project-by-project basis.
10-Year Plan Process & Schedule Attachment No. 2 Budget Review Attachment No. 4	Concur with rates information being presented at each meeting in which it is relevant rather than stand-alone meetings. WAPA had agreed to run "what if" scenarios if customers had a rate concern and potential mitigating suggestions. <i>WAPA, Attach #1, 1.1.2.2 indicates "new AoA studies are proposed to Contractors." Having a proposed project indicates a need for concurrence by those receiving the proposal. The AoA process now appears to merely be a report to Customers about whatever AoAs WAPA has run. Customers would like the AoA process to be a more interactive process & to be able to suggest different AoA ideas.</i>	Updated Attachment Nos. 1 and 3	Section 8.1, 8.3, and Attachment No. 3 provide for review of hypothetical scenarios and rate analysis. Section 8.1 and Attachment No. 1 have been updated to clarify that the AOA process is an interactive one that allows customers to have input on options to be studied.
Budget Review Attachment No. 4	While WAPA's PPW costs are mostly attributed to generation and reported in the AOP, PPW costs are not strictly generation. Costs not directly associated with generation is applied to transmission. Customers want documentation within the JPA that PPW information will be provided (budget vs actuals) during the budget meetings. Customers can agree that WAPA may report on PPW budgets vs actual information in the budget meeting and should document such within the JPA.	Updated Attachment No. to 3	Section 8.3 and Attachment No. 3 provide for reporting on PPW expenses associated with the operation of the DSW Transmission Systems.